MONROE MUNICIPAL UTILITIES AUTHORITY

Employee Handbook

DISCLAIMER

The purpose of this Handbook is to acquaint employees with his/her employment for the Monroe Municipal Utilities Authority. The policies and practices contained in this Handbook are only guidelines and maybe canceled or changed by the Monroe Municipal Utilities Authority at any time with or without notice. This Handbook is not intended to nor does it create an employment contract between the Monroe Municipal Utilities Authority and any of its employees.

THIS HANDBOOK IS NOT A CONTRACT OF EMPLOYMENT.

Except as otherwise provided by a collective bargaining agreement or applicable law, all employees are employees at-will. This means that any employee may voluntarily terminate his/her employment at any time, for any reason. It also means that the Employer may terminate any employee's employment at any time, with or without good cause. Nothing contained in this Handbook constitutes a contractual right, express or implied. No provision contained in this Handbook or any other policy or procedure may be changed by any oral statement but must be in writing signed by an authorized representative of the Employer.

The Monroe Municipal Utilities Authority retains all rights to discharge or discipline employees. As an employee of the Monroe Municipal Utilities Authority, you agree to conform to all applicable policies, procedures, rules, regulations, statutes and collective negotiations agreements.

This Handbook is not meant to affect, or to be a comprehensive description of local, State or federal statutes, rules or regulations, civil service, disciplinary procedures, employment benefits, workers' compensation, leaves from employment, employee compensation, the policies, practices and procedures of the Monroe Municipal Utilities Authority, or collective negotiations. Employees' rights and responsibilities are always governed by existing law and any applicable collective negotiations agreement or established past practice. Nothing in this Handbook provides legal rights in addition to those, if any, provided to employees under local, State or federal statutes, rules, regulations, collective negotiations agreements or established past practice. If any part of this Handbook conflicts with local, State or federal statutes, rules, regulations, executive orders, a collective negotiations agreement or established past practice, the part of the Handbook which conflicts with a local, State or federal statute, rule, regulation, executive orders, collective negotiations agreement or established past practice will be null and void as it applies to the affected group of employees. Likewise, if at any time, any local, State or federal statutes, rules, regulations or collective negotiations agreement should be amended, this Handbook will be deemed to have been likewise amended, even though actual changes to the Handbook have not been made.

The Monroe Municipal Utilities Authority recognizes that many of its employees' terms and conditions of employment are governed by collective negotiations agreements and established past practices. This Handbook does not supersede or affect any term or condition of employment that may exist in any collective negotiations agreement or that may have been established through past practice. If any part of this Handbook conflicts with any term or condition of employment expressly set forth in a collective negotiations agreement or established through past practice, that part of the Handbook will be null and void as it applies to the affected group of employees.

In the event of a declared State of Emergency or otherwise, if any local, State or Federal statute, rule, regulation or Executive Order temporarily amends, alters, suspends or discharges any of the terms set forth in this Employee Handbook, the terms and provisions herein shall be similarly temporarily amended, altered, suspended and or discharged, without the need for formal written amendment of this Employee Handbook.

This Handbook shall apply to all employees of the Monroe Municipal Utilities Authority, including part-time, seasonal and/or temporary employees.

When changes are made to this Handbook, the Monroe Municipal Utilities Authority will make any corresponding changes to the Personnel Manual that are necessary so that the Manual and Handbook do not conflict.

All employees will be notified when any material changes are made to the policies contained in this Handbook.

Table of Contents

* - JIF Policy

* - JIF Policy

ANTI-DISCRIMINATION POLICIES

* - JIF Policy

EQUAL EMPLOYMENT OPPORTUNITY*

The Monroe Municipal Utilities Authority is committed to the principle of equal employment opportunity and anti-discrimination pursuant to Title VII of the 1964 Civil Rights Act as amended by the Equal Opportunity Act of 1972 and the New Jersey Law Against Discrimination (LAD) as amended by the New Jersey Pregnant Worker's Fairness Act. Under no circumstances will the Monroe Municipal Utilities Authority discriminate on the basis of sex, race, creed, color, religion, national origin, ancestry, age, marital or political status, affectional or sexual orientation, domestic partnership status, civil union status, atypical heredity, cellular or blood trait, genetic information, disability (including AIDS or HIV infection), pregnancy (including pregnancy related medical condition), childbirth, breastfeeding, liability for service in the United States armed forces, gender identity or expression and/or any other characteristic protected by law. Decisions regarding the hiring, promotion, transfer, demotion or termination are based solely on the qualifications and performance of the employee or prospective employee. If any employee or prospective employee feels they have been treated unfairly, they have the right to address their concern with their supervisor, or if they prefer their Department Head, Executive Director, Human Resources, or the Authority Solicitor.

It is the responsibility of each member of authority, from the top administrator to the first line supervisor, to give this non-discrimination policy full support through inspirational leadership and personal example. In addition, it is the duty of every employee of this Authority to create a job environment atmosphere which is conducive to our non-discrimination policies.

* - JIF Policy

AMERICANS WITH DISABILITIES ACT*

In compliance with the Americans with Disabilities Act, the ADA Amendments Act and the New Jersey Law Against Discrimination as amended by the New Jersey Pregnant Worker's Fairness Act (LAD), the Monroe Municipal Utilities Authority does not discriminate based on disability, pregnancy, pregnancy related medical condition, breastfeeding, or childbirth. The Monroe Municipal Utilities Authority will endeavor to make every work environment handicap accessible and all future construction and renovation of facilities will be in accordance with applicable barrier-free Federal and State regulations and the Americans with Disabilities Act Accessibility Guidelines, as well as the ADA Amendments Act.

It is the policy of the Monroe Municipal Utilities Authority to comply with all relevant and applicable provisions of the Americans with Disabilities Act, the ADA Amendments Act and the New Jersey Law Against Discrimination as amended by the New jersey Pregnant Worker's Fairness Act (LAD). We will not discriminate against any employee or job applicant with respect to any terms, conditions, or privileges of employment on the basis of a known or perceived disability, pregnancy, childbirth or pregnancy related medical condition. We will also make reasonable accommodations to known physical or mental limitations of all employees and applicants with disabilities or pregnant, provided that the individual is otherwise qualified to safely perform the essential functions of the job and also provided that the accommodation does not impose undue hardship on the Monroe Municipal Utilities Authority.

The Executive Director shall engage in an interactive dialogue with disabled employees and prospective disabled/pregnant employees to identify reasonable accommodations or their respective physician. All decisions with regard to reasonable accommodation shall be made by the Executive Director. The American with Disabilities Act does not require the Monroe Municipal Utilities Authority to offer permanent "light duty", relocate essential job functions, or provide personal use items such as eyeglasses, hearing aids, wheelchairs, etc.

In the case of an employee breastfeeding her infant child, the accommodation shall include reasonable break time each day to the employee and a suitable room or other location with privacy, other than a toilet stall, in close proximity to work area for the employee to express breast milk for the child.

Employees should also offer assistance, to the extent possible, to any member of the public who requests or needs an accommodation when visiting Monroe Municipal Utilities Authority's facilities. Any questions concerning proper assistance should be directed to the Executive Director.

* - JIF Policy

WHISTLEBLOWER POLICY*

As a matter of policy, the Authority abides by all federal, state and local laws, rules and regulations applicable to it and has all its employees do the same. Every employee is responsible for assisting the Authority to implement this policy.

In the ordinary course, a violation of this policy should be reported to an employee's Department Head in writing, signed by the employee. If that is not practical or if that action is taken but does not prevent or correct the perceived violations, the employee is to deliver a written statement, signed and dated to Human Resources. The written statement should detail the specific information the employee possesses so that the Authority may undertake an investigation.

The Authority or any of its employees will not retaliate against any employee who makes a good faith report pursuant to this policy, even if an investigation reveals that no violation occurred. More specifically, neither the Authority nor any of its employees will take any retaliatory action or tolerate any reprisal against an employee who:

Discloses, or threatens to disclose, to a supervisor or to a public body an activity, policy or practice of the Authority or another employer, with whom there is a business relationship, that the employee reasonably believes is in violation of a law, or a rule or regulation issued under the law.

Provides information to, or testifies before, any public body conducting an investigation, hearing or inquiry into any violation of law, or a rule or regulation issued under the law by the Authority or another employer, with whom there is a business relationship.

Provides information involving deception of, or misrepresentation to, any shareholder, investor, client, patient, customer, employee, former employee, retiree or pensioner of the employer or any government entity;

Provides information regarding any perceived criminal or fraudulent activity, policy or practice of deception or misrepresentation which the employee reasonably believes may defraud any shareholder, investor, client, patient, customer, employee, former employee, retiree or pensioner of the Authority or any governmental entity.

Objects to, or refuses to participate in, any activity, policy or practice which the employee reasonably believes: (1) is in violation of a law, or a rule or regulation issued under the law. (2) is fraudulent or criminal; or (3) is incompatible with a clear mandate of public policy concerning the public health, safety, welfare or protection of the environment. See N.J.S.A. 34:19-3.

Disclosure to the Authority first, however is not required where (`) the employee is reasonably certain that the violation is known to one or more officials; (2) where the employee reasonably fears physical harm; or (3) the situation is emergent in nature. The employee must give the Authority a reasonable opportunity to correct the activity, policy or practice. It is the Authority's responsibility to correct or prevent such violations. This is a legal obligation and a practical necessity. A violation can taint the credibility of the

* - JIF Policy

Authority and cause the Authority and its employees to be subjected to adverse publicity leading to public distrust.

This policy is important to the Authority. Each employee should seek to resolve any problem within Authority channels before reporting it to any outside person or entity.

* - JIF Policy

ANTI-HARASSMENT POLICIES

GENERAL ANTI-HARASSMENT POLICY*

The MMUA prohibits harassment of one employee by another employee, supervisor or third party based on race, creed, color, national origin, religion, nationality, ancestry, sex, pregnancy, breastfeeding, sexual orientation, gender identity or expression, disability, familial status, marital status, domestic partnership/civil union status, liability for military service, and atypical hereditary cellular or blood trait, genetic information, age or other protected status.

The purpose of this policy is not to regulate the personal morality of employees. It is to ensure that in the workplace, no employee harasses another for any reason. While it is not easy to define precisely what harassment is, it includes: slurs, epithets, threats, derogatory comments or visual depictions, unwelcome jokes and teasing.

Any employee who feels that (s)he is a victim of such harassment should immediately report the matter to the Executive Director, Superintendent, or Human Resource Manager. The Authority will investigate all such reports as confidentially as possible. Adverse action will not be taken against an employee because he or she, in good faith, reports or participates in the investigation of a violation of this policy. Violations of this policy are not permitted and may result in disciplinary action, up to and including discharge.

* - JIF Policy

ANTI-SEXUAL HARASSMENT POLICY

The MMUA prohibits employees from engaging in sexual harassment of any other employee, or of anyone else that the employee encounters through Authority work (including, for example, vendors or visitors). Unwelcome sexual advances, requests for sexual favors, and other visual, verbal or physical conduct of a sexual nature constitute sexual harassment when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile of offensive working environment. The following examples are a partial list of the types of conduct that may constitute sexual harassment (depending on the circumstances):

- Unwelcome/unwanted sexual advances;
- Propositions or requests for sexual favors;
- Repeated unwelcome requests for dates;
- Off-color jokes or innuendoes; obscene, lewd or suggestive language; or sexually oriented or explicit remarks (including questions, comments or gossip about sexual conduct, experiences, prowess, or deficiencies);
- Derogatory comments based on gender;
- Inappropriate or sexually suggestive touching, such as grabbing, groping, fondling, kissing, brushing up against another's body, stroking someone's hair, or rubbing or massaging someone's neck or shoulders;
- Other sexually suggestive gestures or physical movements;
- Posting, displaying or distributing any sexually oriented, sexually explicit or demeaning materials (such as posters, calendars, photographs, graffiti, cartoons, figurines, e-mails, etc.);
- Standing too close, leering, staring or stalking; or
- Other verbal or physical conduct that is of sexual nature of that is based on gender.

Prohibited sexual harassment also includes any effort by a person in authority to use his or her position or authority to control, influence, or affect the career, salary, employment, or terms and conditions of employment, of an employee or prospective employee in exchange for sexual favors.

It is unlawful for males to sexually harass females or other males, and for females to sexually harass males or other females Sexual harassment on the job is unlawful whether it involves co-worker harassment, harassment by a supervisor or manager, or by persons doing business with or for the Authority.

All employees, including supervisors and managers, have a responsibility to maintain a workplace free of any form of sexual harassment. Any employee who believes he or she has witnessed or is being subjected to sexual harassment must immediately report the matter to the Executive Director, Superintendent, or Human Resource Manager in accordance with our complaint procedure for issues of possible discrimination or harassment.

WORKPLACE VIOLENCE POLICY

All employees have the right to expect a place of employment that is free from behavior that can be considered harassing, abusive, disorderly or disruptive. Any violent behavior or behavior that creates a climate of violence, hostility, or intimidation will not be tolerated, regardless of origin. Proactive measures will be taken to minimize the potential for violent acts. Each and every act or threat of violence will result in an immediate and firm response that could, depending on the severity of the incident and/or other relevant considerations, include termination from employment with the Authority.

This policy includes, but is not limited to, the following behaviors and situations:

- Violent or threatening physical contact (including fights, pushing and physical intimidation).
- Direct or indirect threats
- Threatening, abusive or harassing phone calls
- Possession of a weapon on Authority property
- Destructive or sabotaging actions against Authority or employees' personal property
- Stalking
- Violation of a restraining order
- Threatening acts or abusive language that leads to tension within the work environment

Any person who makes threats, exhibits threatening behavior, or engages in violent acts on Authority property shall be removed from the premises as quickly as safety permits, and shall remain off Authority premises pending the outcome of an investigation. No existing Authority policy, practice or procedure should be interpreted to prohibit decisions designed to prevent a threat from being carried out, a violent act from occurring or a life-threatening situation from developing.

Reporting Procedure

Reporting procedures have been developed to encourage early reporting, support and stress reduction for employees as well as the prevention of violence. Any employee can report concerns or incidents to his or her immediate supervisor, the Executive Director, or Superintendent. In the case of a complaint against a Board Member, the Chair of the Board should be notified. In the case of a complaint against the Board Chair, the Authority Solicitor shall be notified.

The Authority will initiate an appropriate response. This response may include, but is not limited to, termination of employment and/or criminal prosecution of the person(s) involved.'

All employees who obtain a protective restraining order, which lists the Authority premises as being a protected area, must provide to the Executive Director or Superintendent a copy of any temporary or permanent protective or restraining order.

The Authority understands the sensitivity of the information requested and has developed confidentiality procedures, which recognizes and respects the privacy of the employee (s).

Board Members are subject to censure or removal for violating the Workplace Violence Policy.

NEW JERSEY CIVIL SERVICE COMMISSION*

Individuals employed by the Employer fall within the jurisdiction of the New Jersey Civil Service Commission ("CSC"), which regulates employment within State, County, and Municipal governments through a merit system. As an employee of the Employer, you are subject to the rules and regulations of the CSC.

* - JIF Policy

CLASSIFICATION*

Individuals employed by the Employee fall within either “classified” or “unclassified” service. “Classified” employees may be either full or part-time, temporary, provisional or permanent. The classified service is divided into competitive and non-competitive. The competitive division includes all positions which require special skills. Those in the competitive division are subject to examinations given under the auspices of the CSC.

“Unclassified” employees are those elected by popular vote, appointees of the governing body, Department Heads and/or employees for whom the statutes of the State of New Jersey prescribe fixed terms. These employees are not technically subject to the provisions of the CSC. However, the Employer’s policy is to grant unclassified employees essentially the same fringe benefits and procedural rights as their counterparts in the classified service. For any questions as to which fringe benefits apply to unclassified employees, the Employer’s Human Resource Department should be contacted.

* - JIF Policy

EMPLOYEE DEFINITIONS*

Provisional Employee – Pending the establishment of a list of eligibles, a vacancy may be filled by a provisional employee. Such appointment shall continue only until the CSC promulgates an appropriate list. **A PROVISIONAL EMPLOYEE MAY BE TERMINATED AT ANY TIME WITH OR WITHOUT CAUSE.**

Intermittent Employee – Intermittent employees are those who are hired, in titles and departments specified by CSC, in the career service where work responsibilities are characterized by unpredictable work schedules, and which do not meet the normal criteria for regular, year-round, full-time, part-time assignments. Intermittent employees are not eligible for health benefits.

Permanent Employee – Permanent Employees are those who have passed an open competitive examination or promotional examination, have received certification, have been appointed, and have satisfactorily completed the required working test period.

Temporary Employee (T-120) – Temporary employees are those who are hired for a limited period not to exceed an aggregate of six (6) months within a twelve (12) month period. Temporary employees are not eligible for benefits. **A TEMPORARY EMPLOYEE MAY BE TERMINATED AT ANY TIME WITH OR WITHOUT CAUSE.**

Temporary Interim Employee – Temporary interim employees are those who replace permanent employees on an approved leave of absence. **A TEMPORARY INTERIM EMPLOYEE MAY BE TERMINATED AT ANY TIME WITH OR WITHOUT CAUSE.**

Seasonal Employee – Seasonal employees are those appointed to a temporary position which may be of a seasonal nature for a period not to exceed three (3) months in any twelve (12) month period. Seasonal employees are not eligible for benefits. **A SEASONAL EMPLOYEE MAY BE TERMINATED AT ANY TIME WITH OR WITHOUT CAUSE.**

Probationary Employee – A probationary employee is one who is serving a working test period.

Volunteer – [NOTE: definition should be based on the individual municipality's structure as it relates to volunteers, including volunteer fire departments]

* - JIF Policy

EMPLOYMENT/PROMOTIONAL EXAMINATIONS*

Pursuant to N.J.A.C. 4A:1-1 et seq., CSC examinations may be written, oral or an evaluation based on education, training and experience. CSC examinations may be either open competitive or promotional depending upon the circumstances involved. In either case, a certified list will result. To be eligible for an open competitive examination, you must meet the qualifications established by the CSC at the time of filing. Preference in open competitive certification and appointment is given to those who successfully pass examinations in the following order: (i) disabled veteran; (ii) veteran; and (iii) non-veteran.

Promotional examinations are competitive and only open to qualified employees within the department where the promotional opportunity exists. To compete in a promotional examination and to be eligible for promotion, you must have permanent employment status and meet the specific qualifications established by the CSC, as described in the individual Promotional Announcement.

Probationary Period – Employees in all divisions of the classified service must serve a working test period after regular appointment as delineated by the CSC. This probationary period enables the Department Head to evaluate the new employee's conduct and work performance before permanent status is achieved.

* - JIF Policy

NEW JERSEY RESIDENCY POLICY

On September 1, 2011, the State of New Jersey enacted a residency law for all public employees entitled, "New Jersey First Act." The Act requires all employees hired after September 1, 2011 to be a resident of New Jersey. The Act also provides an exemption, but only to those employees who were living outside the State of New Jersey prior to the effective date. For further information concerning additional employee residency requirements, special exemptions, appeals, etc., please see N.J.S.A. 52:14-7 for further guidance or you may contact the Civil Service Commission.

WORKFORCE REDUCTION POLICY

Pursuant to N.J.A.C. 4a:8-1.1, the Monroe Municipal Utilities Authority may institute layoff actions for economy, efficiency or other related reasons, but will first consider voluntary alternatives. (Seniority, lateral or other re-employment rights for employees in Career Service titles will be determined by the New Jersey Department of Personnel.)

CONDUCT OF EMPLOYEES

* - JIF Policy

ETHICAL CONDUCT*

Pursuant to the provisions of the Local Government Ethics Law:

1. No employee, board member or member of his or her immediate family will have an interest in a business organization or engage in any business, transaction or professional activity, which is in substantial conflict with the proper discharge of his or her duties in the public interest.

2. No employee or board member should use or attempt to use his or her official position to secure unwarranted privileges or advantages for him or herself or others.

3. No employee or board member should act in his or her official capacity in any matter wherein he or she, a member of his or her immediate family, or business organization in which he or she has an interest, has a direct or indirect personal or financial interest that might reasonably be expected to impair his or her objectivity or independence of judgment.

4. No employee or board member should undertake any employment or service, whether compensated or not, which might reasonably be expected to prejudice his or her independence of judgment in the exercise of his or her official duties.

5. No employee, board member, or member of his or her immediate family, or business organization in which he or she has an interest, should solicit or accept any gift, favor, loan, political contribution, service, promise of future employment, or other thing of value based upon an understanding that the gift, favor, loan contribution, service, promise or other thing of value was given or offered for the purpose of influencing him or her directly or indirectly in the discharge of his or her official duties.

6. No employee or board member will use, or allow to be used, his or her public employment, or any information, not generally available to members of the public, which he or she receives or acquires in the course of and by reason of his or her employment, for the purpose of securing financial gain for himself or herself, any member of his or her immediate family, or any business organization with which he or she is associated.

7. No employee, board member or business organization in which he or she has an interest will represent any person or party other than the Employer in connection with any cause, proceeding, application or other matter pending before any agency in the local government in which he or she serves. An employee or members of his or her immediate family may represent himself or herself in proceedings concerning the employee's own interests.

* - JIF Policy

POLITICIAL ACTIVITY POLICY*

Employees and board members have exactly the same right as any other citizen to join political organizations and participate in political activities, as long as they maintain a clear separation between their official responsibilities and their political affiliations. Employees and board members are prohibited from engaging in political activities while performing their public duties and from using Monroe Municipal Utilities Authority time, supplies or equipment in any political activity. Any violation of this policy must be reported to the Supervisor, Department Head, Executive Director, Human Resources Manager, or the Authority Solicitor.

* - JIF Policy

CONFLICT OF INTEREST POLICY

Employees including Monroe Municipal Utilities Authority officials must conduct business according to the highest ethical standards of public service. Employees are expected to devote their best efforts to the interests of the Monroe Municipal Utilities Authority. Violations of this policy will result in appropriate discipline including termination.

The Monroe Municipal Utilities Authority recognizes the right of employees and board members to engage in outside activities that are private nature and unrelated to Monroe Municipal Utilities Authority business. However, business dealings that appear to create a conflict between the employee or board member and the Monroe Municipal Utilities Authority's interests are unlawful under the New Jersey Local Government Ethics Act. Under the act, certain employees and officials are required to annually file with the Monroe Municipal Utilities Authority clerk a state mandated disclosure form. The Monroe Municipal Utilities Authority clerk will notify employees and Monroe Municipal Utilities Authority officials subject to the filing requirements of the Act.

A potential or actual conflict of interest occurs whenever an employee including a Monroe Municipal Utilities Authority official is in a position to influence a Monroe Municipal Utilities Authority decision that may result in a personal gain for the employee or an immediate relative including a spouse or significant other, child, parent, stepchild, sibling, grandparents, daughter-in-law, son-in-law, grandchildren, niece, nephew, uncle, aunt or any person related by blood or marriage residing in an employee's household. Employees are required to disclose possible conflicts so that the Monroe Municipal Utilities Authority may assess and prevent potential conflicts. If there are any questions whether an action or proposed course of conduct would create a conflict of interest, immediately contact the Executive Director or the Authority Solicitor to obtain clarification.

Employees are allowed to hold outside employment as long as it does not interfere with their Monroe Municipal Utilities Authority responsibilities. Employees are prohibited from engaging in outside employment activities while on the job or using Monroe Municipal Utilities Authority time, supplies or equipment in the outside employment activities. The Executive Director may request employees to restrict outside employment if the quality of Monroe Municipal Utilities Authority work diminishes. Any employee who holds an interest in, or is employed by, any business doing business with the Monroe Municipal Utilities Authority must submit a written notice of these outside interests to the Executive Director.

Employees or board members may not accept donations, gratuities, contributions or gifts that could be interpreted to affect their Monroe Municipal Utilities Authority duties. Under no circumstances accept donations, gratuities, contributions or gifts from a vendor doing business with or seeking to do business with the Monroe Municipal Utilities Authority or any person or firm seeking to influence Monroe Municipal utilities Authority decisions. Employees and board members are required to report to the Executive Director all gifts, gratuities, meals, etc. that is in violation of this policy.

* - JIF Policy

CONDITIONS OF EMPLOYMENT

EMPLOYEE NEGOTIATIONS POLICY

All employee contracts approved by the Board of Directors shall expire on June 30 of the year agreed upon by both parties. On June 1 of the prior year (expiring contract year) the following shall take place:

- Two Operations Employees, One Clerical Staff employee and One employee representing Management shall be selected by their fellow employees to represent their groups and meet with the Personnel Committee of the Authority to commence the employee contract negotiations process. Each group will have their own contract therefore, the meetings shall be conducted separately. Under no circumstance can another department or Management personnel including but not limited to Superintendent and Deputy Executive Director, intercede or negotiate on behalf of another group.

- The Representatives shall meet with the employees no later than June 10th. After the initial meeting, a formal proposal will be prepared by the representatives. The Representatives shall contact the Personnel Committee in writing to submit the proposal and schedule the subsequent meeting. The meeting shall take place no later than July 31st. The Personnel Committee shall contact the Executive Director for any information needed to aid in salary negotiations.

- If the representatives do not receive a timely response from the Personnel Committee, the representatives shall notify the Executive Director in writing regarding the status. The Executive Director shall then contact the Personnel Committee members to schedule the meeting. If for any reason, the committee members fail to agree to a meeting, the Executive Director will notify the Chairman of the Board and consult the Solicitor.

- The entire negotiation process, including the presentation by the Personnel Committee to the remainder of the Board of Directors *must* be completed no later than December 31st.

- At the time of completion, the representatives shall submit in writing all information relating to the terms of the contract to the Executive Director. The terms of the new employee contracts shall be formally adopted no later than May 31st.

- Once the contracts have been fully executed, all employees will receive a copy.

Employees: Employees of the Monroe Municipal Utilities Authority

Representatives: The employees selected by their fellow co-workers to speak and act on behalf of the employees in salary negotiations.

Personnel Committee: The two Board members that have been appointed by the Chairman of the Board to be the members of the Authority Personnel Committee.

* - JIF Policy

SAFETY POLICY

The Monroe Municipal Utilities Authority will provide a safe and healthy work environment and shall comply with the Public Employees Occupational Safety and Health Act (PEOSHA). The Monroe Municipal Utilities Authority is equally concerned about the safety of the public. Consistent with this policy, employees will receive periodic safety training and will be provided with appropriate safety equipment. Employees are responsible for observing safety rules and using available safety devices including personal protective equipment. Failure to do so constitutes grounds for disciplinary action. Any occupational or public unsafe condition, practice, procedure or act must be immediately reported to the Supervisor or Department Head. Any on-the-job accident or accident involving Monroe Municipal Utilities Authority facilities, equipment or motor vehicles must also be immediately reported to the Supervisor or Department Head.

The Monroe Municipal Utilities Authority has appointed a Safety Committee that meets on a regular basis to discuss and recommend solutions to safety problems. Employees are encouraged to discuss safety concerns with their Safety Committee Representative.

* - JIF Policy

REPORTING OF ACCIDENTS

All employees involved in an accident must report the accident/incident immediately to the supervisor in charge. All accidents/incidents must be reported in writing within 24 hours by the department head of the respective department to the Human Resource Department. This includes any accident or incident involving any phase of insured liability, i.e. Automobile Fleet Insurance, Public Liability, or Workmen's Compensation Insurance. Any employee involved in an accident or incident involving an MUA vehicle or equipment must submit to a drug test within 24 hours of said occurrence.

As stated in the policy for injuries on the job, all Workmen's Compensation claims must be reported to the immediate supervisor immediately for the preparation of appropriate accident report forms.

All accidents involving motor vehicles or other equipment on which a liability claim can be lodged against the Authority must be reported immediately to their immediate supervisor by whatever means available and within 24 hours in writing, accompanied by the police report, if necessary or required. This information will be forwarded to the Executive Director immediately upon receipt for further necessary action.

1. It is the responsibility of the Department Head to notify all employees of their obligation to report any accident or incident where the liability of the Authority is at fault.

2. Any employee driving an Authority vehicle involved in an accident must not leave the scene until a police officer arrives to prepare a policy departmental record of the incident.

3. The Department Head will in turn transmit the policy report with departmental report to the Executive Director.

4. Any employee of the Authority involved in any accident or incident not involving an Authority vehicle must report same to their Immediate Supervisor as soon as possible and in no case more than 24 hours from the incident. This includes incidents and/or accidents involving automobile fleet insurance, public liability and workmen's compensation.

5. It is the responsibility of the Department Head to transmit the information and/or reports to the Executive Director within 24 hours of receipt of same, completely filled out. Forms or reports submitted with insufficient information will be returned to Department Heads for completion.

6. The appropriate department will coordinate filing with the insurance carrier.

JOB DESCRIPTION POLICY*

A job description including qualifications shall be maintained for each position (pursuant to New Jersey Department of Personnel guidelines if the position is subject to Civil Service). All job descriptions must be approved by the Executive Director. The Human Resource Department will make copies available upon request.

* - JIF Policy

HOURS OF WORK*

The working hours of individuals employed by the Authority are determined by the governing body and in accordance with the requirements of each Department and provisions of any applicable collective negotiations agreement.

Normal working hours are an employee's scheduled work period as prescribed by the Authority by specifying the starting and ending time for each respective job assignment.

- Employees must be present and ready for work at the designated starting time for their operation.

- Employees must not leave work until the designated quitting time.

- Lunch hours are staggered where necessary and employees must return to work at the designated time.

The normal work week shall be Monday through Friday and shall consist of forty (40) hours per week. The employer reserves the right to establish other schedules in addition to those now existing, including any rate changes. If new schedule is not agreeable to employee, they shall comply with schedule but have the right to immediately file an appeal with personnel.

A particular meal time of one-half hour is allowed during these hours.

Time and one-half employee's regular rate of pay shall be paid for work under any of the following, but compensation shall not be paid for the same hours:

Daily – All work performed in excess of eight (8) hours in any work day shall be considered overtime.

Weekly – All work performed in excess of forty (40) hours shall be considered overtime.

<u>Unexcused Absence:</u> Unexcused absence shall include:

- Failing to report to, arriving late to or leaving early from an assignment without the approval of a supervisor.
- Absent without leave or failing to report to work without proper notification (defined as one (1) hour as well as expressed authorization (no call/no show).
- Failure to timely call-out sick before the start of a shift. Employees are required to call-out at least one (1) hour in advance of their scheduled shift or as soon as reasonably practicable, unless not possible due to unforeseeable or emergent circumstances.

<u>Absent Without Leave (AWOL):</u> Any employee who fails to report to work as scheduled without prior management approval will be considered absent without leave (AWOL). No employee will be granted leave time not yet accrued without the prior approval of the Executive Director or his/her management

* - JIF Policy

designee. Being absent for work without authorization for three (3) consecutive days may be cause for dismissal.

Excessive Unexcused Absenteeism: Employees may be subject to disciplinary action, up to and including termination, for excessive unexcused absenteeism as defined and within accordance of all applicable State and Federal Law.

JOB PERFORMANCE EVALUATIONS*

The Department Head will complete a written evaluation and appraisal form for every employee to measure progress and to encourage self-improvement at least once a year. The evaluation will also record additional duties performed, educational courses completed as well as a plan to correct any weak points using the Employee Counseling form. After completing the evaluation, the Supervisor or Department Head will review the results with the employee and return the form(s) with the signed acknowledgement to the Executive Director. After review by the Executive Director, the form(s) are to be forwarded to the Human Resource Department for inclusion in the employee's official personnel file. As a part of the evaluation, employees have the right to request a conference with the Executive Director or the Human Resource Manager.

* - JIF Policy

RESIGNATION POLICY*

An employee who intends to resign must notify the Department Head in writing at least two weeks in advance (defined as "Proper Notice"). After giving notice of resignation, employees are expected to assist their Supervisor and co-employees by providing information concerning their current projects and help in the training of a replacement. **During the last two weeks, the employee may not use paid time off except paid holidays.** The Human Resource Manager will prepare an employee action form showing any pay or other money owed to the employee. As practicable, The Human Resource Manager will conduct a confidential exit interview to discuss benefits including COBRA options, appropriate retirement issues and pay due. A COBRA notification letter will be sent to the employee's home address. The exit interview will also include an open discussion with the employee. On the last day of work, and prior to receiving the final paycheck, the employee must return the employee identification card, MMUA badge, all keys and equipment. At this time, the employee will sign the termination memo designating all money owed and this memo will be retained in the official personnel file.

All employees who intend to resign from the Authority, as well as all employees about to be discharged, must satisfy their outstanding obligations to the Authority prior to final separation. This is accomplished through the exit interview with the Human Resource Manager.

Employee

1. Inform your immediate supervisor that you are terminating your employment and give termination date at least two weeks in advance of actual termination.

    A. If an employee resigns without giving required 14 days written notice, said employee shall be held as having resigned not in good standing.

2. Return all department property such as identification card, safety equipment, badges, keys, tools, handbooks such as, employee manual, safety manual, etc. on or before last day of work. Also return all pertinent health benefit cards to the Human Resource Department at the time of the exit interview.

    A. Failure to return all Authority property will result in your final paycheck being withheld.

Supervisor

1. Advise the Executive Director and Superintendent after receiving notification that an employee intends to resign and arrange an exit interview to determine remaining employee's eligible unused benefits.

Human Resource Department

1. Calculate any remaining fringe benefits division and inform employee and Executive Director of remaining benefits.

* - JIF Policy

2. Schedule & Organize the Exit Interview.

<u>If employee has failed to return all Departmental Property:</u>

Supervisor

1. If an employee has failed to return all Departmental Property and upon notice to the employee, we will advise the employee that his final paycheck will be withheld until he returns or pays for all departmental property.

2. If the Authority departmental property has been lost, request immediate supervisor to ascertain the cost of the item(s) by contacting the purchasing agent or other appropriate person(s).

3. After the cost of the item(s) has been determined, the employee will be notified of the amount due and payment will be presented to the supervisor who will in turn submit the payment made to the department of finance, comptroller's office, either in person or by mail, certain that all necessary information is provided for proper identification and credit.

4. Notify the Human Resource Department that the matter has been resolved.

Personnel

1. Human Resource is to notify payroll office to release final paycheck.

Note: The employee is responsible for appearing for his appointment for his exit interview, as all appropriate documents must be signed before clearance of final paycheck.

RETIREMENT POLICY

Purpose

To assist employees if they so desire in arranging their retirement and to make certain that all employees understand the benefits to which they are so entitled.

Authority

N.J.S.A. Title 43

Responsibility

The Human Resource Manager shall have the responsibility to counsel and arrange for an employee's retirement.

The immediate supervisor shall be responsible for advising the employee to contact the Human Resource Manager for retirement assistance.

Procedure

The following action should be taken by the immediate supervisor:

1. Notify employees to contact the Human Resource Department when:

   They want to request a "quotation" of their retirement benefits from their pension program. It will take approximately three to four months to obtain this information. Retirement benefits cannot be paid until an employee has chosen the option outlined in their proposal estimate. Retirement benefits are not normally paid until 30 to 60 days after the choice of said option.

2. Arrange with the employee for a pre-retirement counselling session immediately upon receiving notification of employee's intention to retire.

3. Assist the employee in terminating his or her affairs in the department.

4. Arrange for the final exit interview.

Health Benefits/PERS

(Public Employees Retirement System)

* - JIF Policy

The Monroe Municipal Utilities Authority has previously adopted the provisions of Chapter 88, public laws that permit local public employers to pay the premium charges for eligible pensioners covered by the New Jersey State Health Benefits Program. This is an extension of the following benefits:

Health Insurance

- Dental
- State Health Benefits Plan/Prescription
- Eye Glass Plan
- Life Insurance

The employer agrees to provide retirement benefits (PERS) in accordance with applicable New Jersey Statutes.

* - JIF Policy

PERSONNEL RECORDS*

The official personnel file for each employee shall be maintained by the Human Resource Department. Personnel files are confidential records that must be secured in a locked cabinet and will only be available to authorized managerial and supervisory personnel on a need-to-know basis. Records relating to any medical condition will be maintained in a separate file. Electronic personnel and medical records must be protected from unauthorized access.

Upon request, employees may inspect their own personnel files at a mutually agreeable time on the Monroe MUA premises in the presence of the Human Resource Manager or a designated Supervisor. The employee will be entitled to see any records used to determine his or her qualification for employment, promotion or wage increases and any records used for disciplinary purposes. Employees may not remove any papers from the file. Employees will be allowed to have a copy of any document they have signed relating to their obtaining employment. Employees may add to the file their versions of any disputed item.

Personnel files do not contain confidential employee medical information. Any such information that the Monroe Municipal Utilities Authority may obtain will be maintained in separate files and treated at all times as confidential information. Any such medical information may be disclosed under very limited circumstances in accordance with any applicable legal requirements.

The Monroe Municipal Utilities Authority endeavors to maintain the privacy of personnel records. There are limited circumstances in which the Monroe Municipal Utilities Authority will release information contained in personnel or medical records to persons outside the Monroe Municipal Utilities Authority. These circumstances include:

- In response to a valid subpoena, court order or order of an authorized administrative agency;
- To an authorized governmental agency as part of an investigation of the Monroe Municipal Utilities Authority's compliance with applicable law;
- To the Monroe Municipal Utilities Authority agents and attorneys, when necessary;
- In a lawsuit, administrative proceeding, grievance or arbitration in which the employee and the Monroe Municipal Utilities Authority are parties;
- In a worker's compensation proceeding;
- To administer benefit plans;
- To an authorized health care provider;
- To first aid or safety personnel, when necessary; and
- To a potential future employer or other person requesting verification of your employment as described in the following section titled, "Requests for Employment Verification and Reference Procedure."

*Personnel files are the property of the Monroe MUA.

* - JIF Policy

APPEARANCE POLICY*

Clothing, grooming, personal hygiene, and general appearance are expected to be appropriate for a professional business environment. Each employee must maintain a neat, clean appearance and avoid extremes that could have a negative impact on the business.

The Executive Director and/or Superintendent have the right to set standards of dress for their employees, dependent upon the nature of job responsibilities. Employees are expected to be mindful of how their appearance affects the public image of the Authority, workplace safety, and the comfort and productivity of their colleagues.

The Authority will furnish appropriate uniforms to Operations employees. Operations employees must wear the uniforms supplied by the Authority at all times. **Employees who are issued company uniforms are required to wear clothing that clearly identifies them as Monroe MUA employees. Plain, unbranded Carhartt apparel may be worn as supplemental items only. Plaid shirts are not permitted.** All other employees are required to dress in a manner consistent with what is acceptable in similar business settings.

The following attire is **not permitted**:

- Suggestive or revealing clothing- (ex: spaghetti straps, strapless, crop tops)
- Flip-flops .
- Sneakers (except on designated days)
- T-shirts (unless Authority-issued or approved)
- Hats or head coverings not worn for religious or medical reasons
- Shorts
- Athletic clothing
- Ripped or torn clothing of any kind
- Leggings may be worn in the workplace only when paired with a long cardigan, dress, tunic, or jacket that fully covers the backside. Clothing that does not provide sufficient coverage is not considered appropriate business attire.

Hair, sideburns, mustaches, and beards must be clean, combed, and neatly trimmed. Unkempt or shaggy hairstyles are not permissible, regardless of length.

Relaxed Dress Days
Management reserves the right to designate specific days as **Relaxed Dress Days**. On these days, employees may wear more casual clothes such as jeans, Authority-logo T-shirts, and sneakers, provided the clothing remains appropriate for the workplace. Clothing that is excessively revealing, offensive, or otherwise inappropriate is still not allowed. **Shorts and ripped clothing always remain prohibited.**

Religious Accommodations
With prior approval from the Executive Director, the employer will make reasonable accommodations for religious practices, provided they do not conflict with workplace safety standards.

* - JIF Policy

Policy Enforcement

Failure to comply with this Appearance Policy, including on Relaxed Dress Days, may result in disciplinary action. Employees in violation may be required to take immediate corrective action or may be sent home without pay.

* - JIF Policy

UNIFORM POLICY

Work Uniforms

Proper clothing shall be work at all times as required. The employer shall at its sole expense, furnish uniforms to all permanent employees covered by this agreement as follows:

Operations Department

- Tee shirts
- Pants
- Shirts
- Winter coverall
- Spring coverall
- Spring jacket
- Winter jacket with or without hood
- Gloves
- Safety work boots
- Pair of rubber hip boots
- Sweatshirt

Items will be replaced as needed.

Clothing provided herein by the Employer shall be worn in the ordinary course of employment with the Employer as well as to and from said employment. Violation hereof shall be cause for disciplinary action. The Employee must report to work in a presentable fashion and be clean and neat. During the probationary period of employment, Operations personnel will receive an adequate number of Authority T-shirts as assigned by the Assistant Superintendent or Superintendent. Upon completion of the ninety (90) day probational period, employee will receive the remainder of the Operations uniforms that are supplied to all permanent employees of the Authority.

VEHICLE USAGE POLICY*

Employer vehicles are assigned to employees for use during the performance of official Employer business only. Any employee who utilizes an Employer-assigned vehicle for personal use may be subject to disciplinary action. Additionally, the employee to whom a vehicle is assigned is the party responsible for its security and maintaining it in a safe operating condition. Vehicles may only be taken home with the advance approval of the Employer.

DRIVERS LICENSE POLICY

Any employee whose work requires that the operation of the Monroe Municipal Utilities Authority vehicles must hold a valid New Jersey State Driver's License.

All new employees who will be assigned work entailing the operating of the Monroe Municipal Utilities Authority vehicle will be required to submit to a Department of Motor Vehicles driving records check as a condition of employment. A report indicating a suspended or revoked license status may be cause to deny or terminate employment.

Periodic checks of employee's driver's licenses' through visual and formal Department of Motor Vehicles review checks shall be made by Department Heads or Division Supervisors. Any employee who does not hold a valid driver's license will not be allowed to operate a Monroe Municipal Utilities Authority vehicle until such a time as valid driver's license is obtained.

Any employee performing work which requires the operation of a Monroe Municipal Utilities Authority vehicle must notify the immediate supervisor in those cases where a license is expired, suspended or revoked and/or who is unable to obtain an occupational permit from the State Department of Licensing. An employee that fails to report such an instance is subject disciplinary action, including demotion or termination. An employee who fails to immediately report such revocation or suspension to their supervisor and continues to operate a Monroe Municipal Utilities Authority vehicle shall be subject to possible termination.

Any information obtained by the Monroe Municipal Utilities Authority in accordance with this section shall be used by the Monroe Municipal Utilities Authority only for carrying out its lawful functions and for other lawful purposes in accordance with the Driver's Privacy Protection Act (18 U.S.C. s 2721 et seq.)

Employees who drive their own vehicle for Employer business must provide the Employer with a copy of their current Certificate of Insurance. Drivers are required to notify their immediate supervisor in those cases where a license is expired, suspended, or revoked for any reason. Failure to report such an instance subjects the employee to disciplinary action, up to and including termination. Any employee who does not hold a valid New Jersey Driver's License shall not be allowed to operate an Employer-assigned vehicle until such time as a valid license is obtained.

* - JIF Policy

COMPUTER USAGE POLICY*

The Monroe Municipal Utilities Authority's Communications Media are the property of the Monroe Municipal Utilities Authority and, as such are to be used for legitimate business purposes only. For purposes of this Communication Media Policy, "Communications Media" includes all electronic media forms provided by the Monroe Municipal Utilities Authority, such as cell phones, smart phones, computers, electronic tablets, access to the internet, voicemail, e-mail and fax.

All data stored on and/or transmitted through Communication Media is the property of the Monroe Municipal Utilities Authority. For purposes of this policy, "Data" includes "electronically-stored files, programs, tables, data bases, audio and video objects, spreadsheets, reports and printed or microfiche materials which serve a Monroe Municipal Utilities Authority business purpose, regardless of who creates, processes or maintains the data, or whether the data is processed manually or through any of the Monroe Municipal Utilities Authority's mainframe, midrange or workstations; servers, routers, gateways, bridges, hubs, switches and other hardware components of the Monroe Municipal Utilities Authority's local or wide-area networks.

The Monroe Municipal Utilities Authority respects the individual privacy of its employees. However, employee communications transmitted by the Monroe Municipal Utilities Authority's Communication Media are not private to the individual. All Communication Media and all communications and stored information transmitted, received, or contained in or through such media may be monitored by the Monroe Municipal Utilities Authority. The Monroe Municipal Utilities Authority reserves the absolute right to access, review, audit and disclose all matters entered into, sent over, placed in storage in the Monroe Municipal Utilities Authority's Communications Media. By using the Monroe Municipal Utilities Authority's equipment and/or Communication Media, employees consent to have such use monitored at any time, with or without notice, by Monroe Municipal Utilities Authority personnel. The existence of passwords does not restrict or eliminate the Monroe Municipal Utilities Authority's ability or right to access electronic communications. However, the Monroe Municipal Utilities Authority cannot require the employee to provide its password to his/her personal account.

All email, voicemail and Internet messages (including any technology-based messaging) are official documents subject to the provisions of the Open Public Records Act (N.J.S.A. 47:1A-1).

Employees and Board Members of the Monroe Municipal Utilities Authority are required to use the assigned municipal email account for ALL Monroe Municipal Utilities Authority business and correspondence. The use of private email accounts for ANY Monroe Municipal Utilities Authority business or during business hours is strictly prohibited.

Employees and Board Members can only use the Monroe Municipal Utilities Authority's Communication Media for legitimate business purposes. Employees and Board Members may not use Monroe Municipal Utilities Authority's Communication Media in any way that is defamatory, obscene, or harassing or in violation of any Monroe Municipal Utilities Authority rules or policy. Examples of forbidden transmissions or downloads include sexually-explicit messages; unwelcome propositions; ethnic or racial slurs; or any other message that can be construed to be harassment or disparaging to others based on their actual or perceived age, race, religion, sex, sexual orientation, gender identity or expression, genetic

* - JIF Policy

information, disability, national origin, ethnicity, citizenship, marital status or any other legally recognized protected basis under federal, state or local laws, regulations or ordinances.

All employees and Board Members who have been granted access to electronically-stored data, must use a logon ID assigned by Monroe Municipal Utilities Authority. Certain data, or applications that process data, may require additional security measures as determined by the Monroe Municipal Utilities Authority. Employees and Board Members must not share their passwords; and each employee is responsible for all activity that occurs in connection with their passwords.

All employees and Board Members may access only data for which the Monroe Municipal Utilities Authority has given permission. All employees and Board Members must take appropriate actions to ensure that Monroe Municipal Utilities Authority data is protected from unauthorized access, use or distribution consistent with these policies. Employees and Board Members may not access or retrieve any information technology resource and store information other than where authorized.

Employees and Board Members must not disable anti-virus and other implemented security software for any reason, in order to minimize the risk of introducing computer viruses into the Monroe Municipal Utilities Authority's computing environment.

Employees and Board Members may not install or modify ANY hardware device, software application, program code, either active or passive, or a portion thereof, without the express written permission from the Monroe Municipal Utilities Authority. Employees and Board Members may not upload, download or otherwise transmit commercial software or any copyrighted materials belonging to parties outside of the Monroe Municipal Utilities Authority, or licensed to the Monroe Municipal Utilities Authority. Employees and Board Members shall observe the copyright and licensing restrictions of all software applications and shall not copy software from internal or external sources unless legally authorized.

The Monroe Municipal Utilities Authority encourages employees and Board Members to share information with co-workers and with those outside the Monroe Municipal Utilities Authority for the purpose of gathering information, generating new ideas and learning from the work of others to the extent such sharing is permitted by the Monroe Municipal Utilities Authority. Social media provide inexpensive, informal and timely ways to participate in an exchange of ideas and information. However, information posted on a website is available to the public; therefore, employees and Board Members must adhere to the following guidelines for their participation in social media. Employees and Board Members may engage in social media activity during work time through the use of the Monroe Municipal Utilities Authority's Communication media, provided that it is directly related to their work and it is in compliance with this policy.

Employees and Board Members must not reveal or publicize confidential Monroe Municipal Utilities Authority information. Confidential proprietary or sensitive information may be disseminated only to individuals with a need and a right to know, where there is sufficient assurance that appropriate security of such information will be maintained. Such information includes, but is not limited to the transmittal of personnel information such as medical records or related information. In law enforcement operations, confidential, proprietary or sensitive information also includes criminal history information, confidential informant identification, and intelligence and tactical operations files.

Employees and Board Members are prohibited from releasing or disclosing any photographs, pictures, digital images of any crime scenes, traffic crashes, arrestees, detainees, people or job related incident or occurrence taken with the Monroe Municipal Utilities Authority's Communication Media to any person, entity, business or media or Internet outlet whether on or off duty without the express written permission from the Executive Director. Except in "emergency situations", employees are prohibited from taking digital images or photographs with media equipment not owned by the Monroe Municipal Utilities Authority. For purposes of this section, an "emergency situation" involves a sudden and unforeseen combination of circumstances or the resulting state that calls for immediate action, assistance or relief, and may include accidents, crimes and flights from accidents or crimes and the employee does not have access to the Monroe Municipal Utilities Authority's Communication Media. If such situation occurs, employee agrees that any images belong to the Monroe Municipal Utilities Authority and agree to release the image to the Monroe Municipal Utilities Authority and ensure its permanent deletion from media device upon direction from the Monroe Municipal Utilities Authority.

No media advertisement, electronic bulletin board posting, or any other posting accessible via the Internet about the Monroe Municipal Utilities Authority or on behalf of the Monroe Municipal Utilities Authority, whether through the use of the Monroe Municipal Utilities Authority's Communication Media or otherwise, may be issued unless it has first been approved by the Executive Director of the Monroe Municipal Utilities Authority. Under no circumstances may information of a confidential, sensitive or otherwise proprietary nature be placed or posted on the Internet or otherwise disclosed to anyone outside the Monroe Municipal Utilities Authority.

Because (authorized) postings placed on the Internet through use of the Monroe Municipal Utilities Authority's Communication Media will display the Monroe Municipal Utilities Authority's return address, any information posted on the Internet must reflect and adhere to all of the Monroe Municipal Utilities Authority's standards and policies.

All users are personally accountable for messages that they originate or forward using the Monroe Municipal Utilities Authority's Communication Media. Misrepresenting, obscuring, suppressing or replacing a user's identity on any Communication Media is prohibited. "Spoofing" (constructing electronic communications so that it appears to be from someone else) is prohibited.

Employees and Board Members must respect the laws regarding copyrights, trademarks, rights of public Monroe Municipal Utilities Authority and other third-party rights. Any use of the Monroe Municipal Utilities Authority's name, logos, service marks or trademarks outside the course of the employee's employment, without the express of consent of the Monroe Municipal Utilities Authority, is strictly prohibited. To minimize the risk of a copyright violation, employees should provide references to the source(s) of information used and cite copyrighted works identified in online communications.

To the extent that employees and Board Members use social media outside of their employment and in so doing employees identify themselves as a Monroe Municipal Utilities Authority employees, or if they discuss matters related to the Monroe Municipal Utilities Authority on a social media site, employees must add a disclaimer on the front page, stating that it does not express the views of the Monroe Municipal Utilities Authority, and the employee is expressing only their personal views. For example: "The views expressed on this website/web log are mine alone and do not necessarily reflect the views of my employer." Please the disclaimer in a prominent position and repeat it for each posting that is expressing an opinion related to the Monroe Municipal Utilities Authority or the Monroe Municipal Utilities Authority's business. Employees and Board Members must keep in mind that, if they post information on a social media site that is in violation of the Monroe Municipal Utilities Authority policy and/or federal, state or local laws, the disclaimer will not shield them from disciplinary action.

Nothing in these policies is designed to interfere with, restrain or prevent employee communications regarding wages, hours or other terms and conditions of employment. Monroe Municipal Utilities Authority employees have the right to engage in or refrain from such activities.

SOCIAL NETWORKING POLICY*

The Authority understands that social media may be a fun and rewarding way to share your life and opinions with people around the world; however, the use of social media also presents risks and carries with it certain responsibilities. The Authority's Social Media Policy is to assist you with guidelines for appropriate use of social media.

The same principles and policies found in the Authority's Board of Directors Handbook apply to your activities online. Ultimately, you are solely responsible for what you post online. Before creating online content, you must consider the risks and rewards that are involved. You should ensure that your postings are consistent with this Social Media Policy and all other policies contained in this Handbook, including but not limited to the Anti-Discrimination and Harassment policies. Inappropriate postings that may include discriminatory racial remarks, sexual harassment, or other unlawful harassment, threats of violence, or similar inappropriate or unlaw conduct will not be tolerated and may subject you to disciplinary action, up to and including termination.

What is Social Media?
In the rapidly expanding world of electronic communication, social media can mean many things. Social media includes all means of communicating or posting information or content of any sort on the Internet, including but not limited to the following:

- Social networking sites (e.g. Twitter, Parler, Facebook)
- Micro-blogging sites (e.g. Twitter, Snapchat)
- Blogs (e.g. personal blogs, Authority blogs, weblogs, journal or diary sites)
- Online Encyclopedias (e.g. Wikipedia)
- Sites that allow for sharing of video and photographs (e.g. YouTube, Instagram)
- Websites (e.g. comments posted on on-line newspaper publications or postings on personal, news or Authority websites)

Be Respectful
We encourage you to always be fair and courteous to others, including but not limited to other Board Members, MMUA staff, employees, rate-payers, vendors, colleagues or others who work on behalf of or are otherwise associated with the Authority. If Board Members decide to post statements, photographs, video or audio that reasonably could be viewed as obscene, pornographic, threatening or intimidating, which disparage others, or constitute harassment or bullying, they me be subject to censure or removal. Examples of such conduct might include offensive posts meant to intentionally harm someone's reputation or posts that could contribute to a hostile work environment on the basis of race, sex, disability, religion or any other protected category or characteristic.

Be Honest and Accurate
You are encouraged to make sure you are always honest and accurate when posting information or news, and if you make a mistake, correct it quickly. Be open about any previous posts you have altered. Remember that the Internet archives almost everything; therefore, even deleted postings can be searched.

* - JIF Policy

Never post any information or rumors that you know to be false about the Authority, Board Members, staff, rate-payers, co-workers, clients, vendors or others who work on behalf of the Authority or are associated with the Authority. Those found to have violated defamation laws are subject to personal liability.

Maintain Confidential and Proprietary Information
Board Members should protect information regarding the Authority and its clients and rate-payers, which is confidential, private and otherwise proprietary, including but not limited to trade secrets. Trade secrets may include information regarding the development of systems, processes, products, know-how and technology. Do not post internal reports, policies, procedures or other business-related confidential communications.

Ensure Compliance with Intellectual Property Laws
You must ensure that any social media postings do not violate copyright, trademark or other intellectual property laws.

Not Authorized to Speak on Behalf of the Authority
Express only your personal opinions. Never represent yourself as a spokesperson for the Authority, unless you are authorized by the Board of Directors to do so. If the Authority is a subject of the content you are creating, you must be clear and open about the fact that you are an employee and make it clear that your views do not represent those of the Authority. If you do publish a blog or post online related to the work you do or subjects associated with the Authority, you must make it clear that you are not speaking on behalf of the Authority. It is best to include a clear and conspicuous disclaimer such as "The postings on this site are my own and do not necessarily reflect the views of the Authority."

Authority Social Media Accounts/Posts
Any social media accounts that are created on behalf of the Authority or which otherwise contain postings on behalf of the Authority remain the property of the Authority. The account, including the login and password information associated with the account, remains the property of the Authority. You are prohibited from sharing the login or password associated with the Authority's account to anyone other than Authority management, and employees of the Authority who are made aware of such a login or password information must return such information to a member of management upon request or at the end of their employment. You are prohibited from accessing any on-line accounts created on behalf of the Authority or using the Authority's account to post online information unless provided permission from the Executive Director.

EQUAL PAY POLICY

The Authority prohibits employee compensation and benefits discrimination based on sex, race, age and any other legally protected classification. The Authority strives to provide equal pay for substantially similar work, when viewed as a composite of skill, effort and responsibility. Factors taken into consideration when setting pay for employees at the Authority include job title, job description, job responsibilities, managerial/supervisory status, seniority, performance, merit, productivity, disciplinary history, experience, training, education, ability and physical or mental exertion requirements. Pay differentials based on lawful factors other than sex, race, age or other protected classification shall not constitute a violation of this policy.

PERSONAL INFORMATION POLICY

No employee of the Authority shall discuss any employee's personal information during working hours at any Authority facility, unless conducting official Authority business. As some information is open to the public, the Authority deems this practice unacceptable for conversation in the workplace.

If an employee is found to be disregarding this policy, immediate disciplinary action shall commence.

* - JIF Policy

ID CARDS

All employees who, in the course of their normal work-related activities may on occasion have to enter any premise or property of the Authority, any Public building or customer's residence, will be required to have on their person during working hours an I.D. card.

I.D. cards are made available to Authority employees; these I.D. cards are to be carried by the employee at all times and utilized when necessary.

I.D. cards are to be returned to the Authority upon termination of employment.

SENIORITY POLICY

Upon the Employee's hire, the Employee shall be considered a "Probationary Employee" for a three (3) month period. In accordance with N.J.A.C. 4A:2-4.1, during the probationary period, the Employee may be terminated at any time without any recourse under this agreement. Upon successful completion of the probationary period, the Employee's seniority shall be his date of commencement of employment, including the probationary period for purposes of benefits, provided such employment is continuous, with the exception from the continuous requirement for time spent in military service. Employee shall cease to have seniority rights upon one or more of the following events: voluntary resignation, discharge for cause, or unauthorized absence for more than five (5) work days.

In all applications of seniority, where ability to perform work and physical fitness are equal, seniority shall be given preference in promotions, demotions, layoffs, recall and vacation schedules, where there is no conflict with the Civil Service Department. An employee possessing a special skill or skills required for a particular position will be given preference for promotion to such positions as determined by that employee's immediate supervisor. Employees having equal qualifications will be selected for promotion on the basis of length of service and in accordance with the regulations of the Civil Service Department.

UNAUTHORIZED USE OF MUNICIPAL EQUIPMENT

No Authority employee or board member shall use or attempt to use his privileged access to Authority equipment, services or information for his own benefit or the benefit of others.

No Authority employee or board member shall remove or in any way aid and abet the removal of any supplies, materials, goods or equipment belonging to the Authority from its offices, garages, maintenance buildings or storage locations, unless such removal has been authorized.

Authority vehicles cannot be used for personal use except for commuting purposes by those employees who are authorized to take Authority vehicles home.

Violation as herein set forth shall be cause for removal from office, suspension, demotion or other disciplinary action as deemed fit.

SCRAP POLICY

All Supervisors will fill out an Asset Disposal Form for any items that will be placed in the scrap pile. The Asset Disposal Form will then be given to employee performing this duty. The employee will sign off when done and will give it to Superintendent, Assistant Superintendent or Executive Director. This form will be approved by Superintendent, Assistant Superintendent or Executive Director. This signed form will then be returned to the Comptroller.

Two employees (appointed by Superintendent/Assistant Superintendent) will take scrap metal to scrap yard on a quarterly basis, or sooner if needed at Superintendent/Assistant Superintendent's discretion. (Quarters ending March 31, June 30, September 30, and December 31. These two employees will then take the receipt directly to the comptroller where she will receive a mailed check. If there is no scrap to be taken to the scrap yard, the Superintendent or Assistant Superintendent will notify the Comptroller by email.

Procurement for Scrap Metal Collection and disposal services will be done through RFP. If proposals are not received, selection will be done via the Authority's QPA by obtaining quotes.

Comptroller will keep a log of date, employees, amount, and the name of the scrap yard.

COMPENSATION AND BENEFITS

All full-time employees are eligible for the benefits as provided by the Employer, subject to the rules and regulations governing the same, with the understanding that these benefits can be changed at any time by the Employer.

In connection with health benefits, the employer may require employees to re-enroll on an annual basis in order to verify proper coverage for employees and their eligible dependents. Employees shall notify the Employer of any change in circumstances affecting their coverage, e.g. birth, death, divorce, or a covered dependent reaching the age of twenty-six (26). The Employer reserves the right to conduct a coverage audit to verify proper coverage for employees and eligible dependents.

CHANGING VITAL INFORMATION

The MMUA, Human Resource Department is held responsible for maintaining a centralized record of vital information. Failure on the part of an employee to report said changes to the Human Resource Department, may adversely affect the employee's status with the Authority. It is the responsibility of each employee to notify the Human Resource Department of all changes in vital information as listed below:

- Family Status
- Marital Status
- Dependent Children
- Name
- Address
- Telephone Number
- Withholding Tax – Both State and Federal
- Health Benefits
- Pension
- Insurance, etc.

In the case of all other vital information changes, notify the Human Resource Department, and an appointment will be made in order that the necessary changes can be appropriately documented.

PAY PERIOD AND PAY DAY

Employee shall be paid each week. Pay day shall be every Thursday. When the regular pay day occurs on a holiday the employer shall pay the employees on the regular work day immediately preceding the holiday.

LICENSES

If the Employee obtains a water and/or sewer license, the Employer shall reimburse the Employee for the cost of any course taken and the Employee shall receive an hourly rate increase of: $0.60 per hour (effective July 1, 2019). The water and sewer licenses for which an employee will receive compensation for include, but are not limited to, a Collections (C) License, Distribution (W) License and Treatment (T) License up to a Class III only.

If the Employee obtains their Commercial Driver's License (CDL) Class A, the Employer shall reimburse the Employee for the costs associated with application and exams and the Employee shall receive an hourly rate increase of: $1.00 per hour.

OVERTIME POLICY

In order to meet the demands of work, employees may be required to work in excess of the hours of work designated as the normal work week for their class title. Any employee salaried or hourly who is authorized or required to work beyond the normal work week for his class title shall be compensated.

All authorized overtime must be recorded on weekly time sheets. Overtime payment will be included in the paycheck of the employee covering base wages for the respective time period.

Weekly Standby Duty

At least one employee shall be assigned to weekly standby duty. He or she shall be scheduled on a rotating basis, based on classification (seniority). Such senior employee asked may refuse, but the junior-most employee may not refuse. Employees scheduled for weekly standby duty may be given a primary duty cell phone when scheduled and it shall be said employee's responsibility to respond to all off-hour calls.

Any employee who is required to be on standby duty shall be compensated two (2) hours pay per day at his time and one-half hourly rate of pay for his responsibility of carrying the cell phone, in addition to any call-in pay (for seven (7) days at time and one-half).

Holiday Pay

The scheduled On-Call employee will receive 8 hours (7AM to 3PM) of Time and a half (Regular Overtime Rate), plus the day's pay = totaling double-time-and-a-half for any observed holiday that falls during the normal work week.

The scheduled On-Call employee will receive 8 hours (7AM to 3PM) of Time and a half (Regular Overtime Rate) for any holiday that falls on the weekend.

If the scheduled On-Call employee gets called in outside of the 8-hour work-day (before 7AM or after 3PM) – their hours worked will be computed at Double time and a half (Holiday Pay Rate).

An employee who reports to work on a Holiday and was not scheduled to be on-call will receive their number of hours worked computed at Double time and a half (Holiday Pay Rate), plus the day's pay.

This will apply to all paid holidays

For each holiday, there is a midnight cutoff time of 11:59pm. (An employee who works Christmas Day and gets called in 11PM until 3AM the next day, will receive 1 hour paid at holiday rate with the remaining 3 hours at regular OT rate.)

HEALTH INSURANCE POLICY

The Employer will provide, in full, the New Jersey State Health Benefit Plan, Prescription Plan, Dental Plan, Vision Plan, and Life Insurance for the Employee and family. Employee is subject to contributions for health benefits in accordance with the P.L. 2011 c. 78, which allows for the medical contributions to be deducted from the Employee's paychecks pre-tax. The Section 125 Plan is also available to pay for deductibles and other health care costs incurred in accordance with IRS Regulations.

The Employer agrees to provide Employee with retirement benefits (PERS) in accordance with applicable New Jersey Statutes. Employees who retire with a minimum of 25 years with the Authority will receive continued medical, prescription, dental, vision, and life insurance coverage for the employee and spouse and/or family. The Employer will only be responsible for payment of health insurance as stated above until the Employee is retirement eligible. Once the Employee is retirement eligible, the provisions regarding retirees under P.L. 2011 c. 78, shall apply. Retirees will be required to contribute toward the cost of health insurance as set forth in Chapter 2, P.L. 2010.

The Employer shall continue to have Employee enrolled in the State disability plan. If Employee is receiving double coverage due to Employee's spouse being employed, Employee shall annually have the option to decline enrollment of Employee's Health Insurance benefits with Employer and receive a cash allotment of $25% of the amount saved by the employer because of the waiver or $5,000.00 or whichever is less. This waiver of coverage is for State Health Benefits and Prescription Plan only. This waiver incentive covers from July 1st to June 30th. If an employee decides to re-enroll in State Health Benefits or Prescription before the year end of the waiver, the Employee must reimburse the Authority the difference. In accordance with Chapter 2, P.L. 2010, the Employee is not eligible for the waiver incentive if the other coverage is with State Health Benefits. All employees are grand fathered in for the waiver incentives amounts that they were receiving prior to the Chapter 2, P.L. 2010 other than double State Health Coverage.

PAID AND UNPAID LEAVE

Family leave, military leave, illness, intermittent, maternity and other such leaves of absence shall be granted in accordance with CSC rules and regulations, federal and State Laws/regulations, collective negotiations agreements, and any other guidelines that may be established by the Employer.

NO TIME OFF WITHOUT PAY FOR ABSENCE POLICY

If an employee has exhausted and used all vacation/sick and personal time, they will have to report to work unless it is for a death in the family. See Bereavement Leave Policy. There will be no time off without pay for an absence other than a suspension.

PAID HOLIDAYS*

There are thirteen (13) paid holidays:

1. New Year's Day
2. Martin Luther King Day
3. President's Day
4. Good Friday
5. Memorial Day
6. Juneteenth
7. Independence Day
8. Labor Day
9. General Election Day
10. Veteran's Day
11. Thanksgiving Day
12. Day after Thanksgiving
13. Christmas Day

In the event a holiday falls on a Saturday, it shall be celebrated on the preceding Friday.

In the event a holiday falls on a Sunday, it shall be celebrated on the following Monday.

In order to qualify for holiday pay, employees must work his or her scheduled workday immediately preceding and his or her workday immediately following the holiday unless on an excused absence.

Whenever a holiday falls during the time an employee is on paid sick leave, that day will not be charged against his or her sick leave.

Employees who are on leave of absence without pay, will not be eligible for paid holidays.

In the event an employee calls out sick the day immediately preceding or immediately following a holiday, they must provide a Doctor's note in order to be paid for that holiday.

* - JIF Policy

SICK LEAVE*

Sick leave is considered to be an authorized absence.

Sick leave for new employees shall accumulate on the basis of one and one quarter (1 ¼) days per month during the first year.

Although sick time is posted to each employee's account on January 1st of each calendar year in anticipation of continued employment, sick time is accrued monthly throughout the calendar year.

If an employee is absent for reasons that entitle him to sick leave. His supervisor shall be notified at least one (1) hour prior to the employee's starting time, or as far in advance as practicable.

After an employee has been out sick for five (5) working days, said employee may be required to furnish a certificate from the attending physician regarding the illness and ability to return to work.

Sick leave credits shall continue to accrue while an employee is on any leave with pay. Credits shall not accrue while an employee is on any leave without pay.

Permissible Use of Sick Time. Sick time is intended for the following uses:

- Personal illness or injury of the employee or the employee's family member.
- For medical care for a person illness or injury of the employee or the employee's family member.
- Exposure to contagious disease.
- Care, for a reasonable period of time, of a seriously ill member of the employee's immediate family; immediate family shall be defined as an employee's spouse, domestic partner child, legal ward, grandchild, foster child, father, mother, legal guardian, grandfather, grandmother, brother, sister, father-in-law, mother-in-law, and other relatives residing in the employee's household.
- Death in the employee's immediate family, for a reasonable period of time.
- By an employee with a disability for absences related to the acquisition or use of an aid for the disability when the aid is necessary to function on the job. In such cases, reasonable proof may be required by the Employer.

Buy Back of Sick Leave per N.J.S.A. 11A:6-19.2 - Cap on payment for accumulated unused sick leave

"Notwithstanding any law, rule or regulation to the contrary, a political subdivision of the State, or an agency, authority or instrumentality thereof, that has adopted the provisions of Title 11A of the New Jersey Statutes, shall not pay supplemental compensation to any officer or employee for accumulated unused sick leave in an amount in excess of $15,000. Supplemental compensation shall be payable only at the time of retirement from a State-administered or locally-administered retirement system based on the leave credited on the date of retirement. This provision shall apply only to officers and employees who

* - JIF Policy

commence service with the political subdivision of the State, or the agency, authority or instrumentality thereof, on or after the effective date of P.L.2010, c. 3. This section shall not be construed to affect the terms in any collective negotiation's agreement with a relevant provision in force on that effective date."

- In accordance with N.J.S.A. 11A:6-19.2, for employees who commenced employment with the Monroe MUA prior to May 21, 2010, the Monroe MUA shall buy back that portion of the employee's unused annual sick day allotment that the employee wishes to sell. In the event such employee has unused annual sick days remaining at the time of retirement, the Monroe MUA shall buy back all accumulated and unused paid sick leave at 100% with such payment at retirement capped at $15,000.

- In accordance with N.J.S.A. 11A:6-19.2, for employees who commenced employment with the Monroe MUA on or after May 21, 2010, at the time of retirement, the Monroe MUA shall buy back all accumulated and unused paid sick leave at 100%, with such payment at retirement capped at $15,000.

At the conclusion of each fiscal year, each employee shall be paid after December 1st, for any unused sick leave days accumulated at 100% of the employee's prevailing wages, provided the employee has not resigned or been terminated. On or about December 1st, the Authority Payroll Department will advise each employee in writing of their amount of accumulated time. The employee has ten days in which to reply pertaining to buy back, or accumulation of time. Disbursement of buy back will be no later than December 31st.

VACATION LEAVE*

Vacation is considered to be an authorized absence.

All permanent employees covered by this Agreement shall be entitled to vacation leave based upon their years of continuous service. Periods of time on leave of absence without pay, except for Military leave, shall be deducted from the employee's total continuous service for purposes of determining the earned service credit for vacation leave.

<u>Vacation with pay shall be granted to the Employee as follows if Employee was hired prior to July 1, 2013:</u>

1. From zero (0) to one (1) year, one (1) working days' vacation per month.
2. One (1) year to three (3) years, twelve (12) working days' vacation for the year.
3. Three (3) years to ten (10) years, fifteen (15) working days' vacation.
4. Ten (10) years to fifteen (15) years, twenty (20) working days' vacation.
5. Fifteen (15) years to twenty (20) years, twenty-five (25) working days' vacation.
6. Twenty (20) years or more, thirty (30) working days' vacation.

<u>Vacation with pay shall be granted to the Employee as follows if the Employee was hired on July 1, 2013 or on a later date:</u>

1. From zero (0) to one (1) year, one (1) working days' vacation per each full month.
2. One (1) year to seven (7) years, twelve (12) working days' vacation for the year.
3. Seven (7) years to fifteen (15) years, fifteen (15) working days' vacation.
4. Fifteen (15) years to twenty-five (25) years, twenty (20) working days' vacation.
5. Twenty-five (25) years or more, twenty-five (25) working days' vacation.

The rate of vacation pay shall be the employee's regular straight time rate of pay in effect for the employee's regular job on the pay day immediately preceding the employee's vacation period.

<u>Vacation Leave per N.J.S.A. 11A:6-3 – Vacation Leave; full-time political subdivision employees</u>

Vacation not taken in a given year because of business demands shall accumulate and be granted during the next succeeding year only; except that vacation leave not taken in a given year because of duties directly related to a state of emergency declared by the Governor may accumulate at the discretion of the appointing authority until, pursuant to a plan established by the employee's appointing authority and approved by the commission, the leave is used or the employee is compensated for that leave, which shall not be subject to collective negotiation or collective bargaining.

- In accordance with N.J.S.A. 11A:6-3 applicable to all employees, all vacation time to which an employee is entitled shall be issued on January 1 and used prior to the end of the year the vacation leave was issued. All such vacation leave not used by the end of the year it is issued shall not be

* - JIF Policy

carried over beyond the succeeding year. In accordance with N.J.S.A. 11A:6-3, the balance of any vacation time that is unused, does not carryover and shall be deemed waived by the employee.

A permanent employee who returns from military service is entitled to full vacation allowance for the calendar year of return.

Although vacation time is posted to each employee's account on January 1st of each calendar year in anticipation of continued employment, vacation time is accrued monthly throughout the calendar year.

An employee who is retiring or who has otherwise separated except "for cause" or quits without proper 14-day notice, shall be entitled to the vacation allowance for the current year pro-rated upon the number of months worked in the calendar year in which the separation or retirement becomes effective and any vacation leave which may have been carried over from the preceding calendar year.

Whenever a permanent employee dies, having any earned annual vacation leave, there shall be calculated and paid to his estate a sum of money equal to the earned pro-rated vacation, based on his salary rate at the time of his death.

Vacation leave credits shall continue to accrue while an employee is on leave with pay. Credits shall not accrue while an employee is on leave without pay.

****Two employees in the same department will not be permitted to take vacations in the same period of time.***

Vacation Leave Buy Back

At the conclusion of each fiscal year, each employee shall be paid after December 1st, for any unused vacation leave days not to exceed seven (7) days accumulated at 100% of the employee's prevailing wages, provided the employee has not resigned or been terminated. On or about December 1st, the Authority Payroll Department will advise each employee in writing of their amount of accumulated time. The employee has ten days in which to reply pertaining to buy back, or accumulation of time. Disbursement of buy back will be no later than December 31st.

No employee will be granted time off without pay for failure on the part of the employee to ensure that they have adequate vacation time to cover them until January 1st of the following year. Violation of this rule may result in a forfeiture of this benefit by the employee.

* - JIF Policy

PERSONAL DAYS*

Personal Day is considered an authorized absence.

In general, the following conditions prevail:

Leaves of absence with pay, for personal business shall be granted at maximum of three (3) days per year, after completion of the probationary period, which leave of absence shall, if unused, not be cumulative from year to year. Personal business shall include: attendance at weddings or other related celebrations; attendance in court; personal or legal business matters which cannot be attended to outside the scheduled work hours; religious holidays or any other emergency or urgent reason, if approved by the immediate supervisor, which approval shall be freely given. All requests for personal days leave of absence shall be in written form within forty-eight (48) hours in advance thereof. Only in an emergency may such a request be made verbally. Verbal approvals must be followed within one week by a written request. The respective employees shall be paid his hourly rate of pay for such days of excused absence which occur during his normal work week.

* - JIF Policy

BEREAVEMENT LEAVE*

Bereavement leave is considered to be an authorized absence.

Time off without loss of pay shall be granted to regular employees in the event of death of the employee's mother, father, sister, brother, husband, wife, child or other relative who is a member of the employee's immediate household. Time off shall be given to cover the period of bereavement of five (5) consecutive work days. Time off for death of mother-in-law, father-in-law, sister-in-law, and brother-in-law from the current marriage, grandmother, grandfather or grandchild of an employee shall be limited to two (2) consecutive work days for bereavement unless member of immediate household. If any employee is on vacation and notifies the Authority of a death in family (as defined herein), his/her vacation shall be extended the additional number of days off for such death as provided in this section. Employees may also request an extension of bereavement leave for extraordinary circumstances. Such requests must be submitted in writing to the Executive Director. The Executive Director retains sole discretion to grant or deny such requests.

* - JIF Policy

FAMILY AND MEDICAL LEAVE*

Employees may be eligible for an unpaid family and medical leave under the federal Family and Medical Leave Act ("FMLA"). Employees also may be eligible for family and/or medical leave pursuant to the New Jersey Family Leave Act ("FLA"). In order to be eligible for such leave, employees must have: one (1) year of credited service with the Authority; and, at least 1,000 hours of work (for New Jersey Leave) and 1,250 hours or work (for Federal Leave) during the previous twelve (12) months and is employed at a worksite where 50 or more employees are employed by the employer within 75 miles of the worksite (for Federal Leave). Eligible employees may receive up to twelve (12) weeks of leave per year (FMLA) or twelve (12) weeks every twenty-four (24) months through the state of New Jersey (FLA).

During the leave period, the employee's health benefits will be continued on the same conditions as coverage would have been provided had the employee been employed continuously during the entire leave. The employee will not continue to accrue vacation, sick or personal days for the period of the leave. The employee will receive seniority credit for the time that the employee has been on leave under this section. At the conclusion of the leave period, an eligible employee is entitled to reinstatement to the position the employee previously held or to an equivalent one with the same terms and benefits that existed prior to the exercise of the leave.

Upon written notice, eligible employees are entitled to a family or medical leave for up to twelve (12) weeks to care for a newly born or adopted child, or a seriously ill family member, including civil union partner, or for the employee's own serious health condition that makes the employee unable to perform the functions of the employee's position. Eligible employees who take leave under this policy must use all accrued vacation, sick and personal days during the leave. The use of accrued time will not extend the leave period. After exhausting accrued time, the employee will no longer be paid for the remainder of the leave.

Generally, FMLA leave is unpaid. However, depending on the circumstances, employees may be entitled to receive short-term disability, worker's compensation benefits, paid family leave benefits, or other state-sponsored wage replacement benefits which pay a portion of normal compensation. These benefits will run concurrently with the employee's unpaid leave. Eligible employees who take leave under this policy must use all accrued vacation, sick and personal days during the leave. The use of accrued time will not extend the leave period. After exhausting accrued time, the employee will no longer be paid for the remainder of the leave. Employees may not receive more than 100% of salary at any time.

The period of leave must be supported by a physician's certificate which will be provided to the employee by the Human Resource Department. An extension past twelve (12) weeks can be requested, but medical verification of the need must be submitted prior to the expiration of the leave. The Authority reserves the right to deny any request for extended leave. Additional information concerning the Family Leave policy and eligibility requirements are available from the Human Resource Department.

Commencing July 1, 2009, New Jersey Family Leave Insurance ("NJFLI") payments for up to six (6) weeks in a twelve (12) month period will become available for eligible employees who are caring for a

* - JIF Policy

seriously ill immediate family member who is incapable of self-care or care of a newborn or adopted child. To be eligible, the employee must have worked at least 20 weeks at minimum wage within the last 52 weeks or earned 1,000 times the minimum wage. The weekly benefit of 2/3 of weekly compensation up to a maximum of $524 per week (this amount is subject to change). NJFLI will run concurrently with FMLA and/or FLA leaves and there is a one week waiting period for such compensation. Employees may also be required to use accrued vacation, sick or personal leave for up to two (2) weeks.

Employees taking paid family leave in connection with a family member's serious health condition may take leave intermittently or consecutively. Intermittent leave is not available for the care of a newborn or adopted child. Intermittent leave may be taken in increments necessary to the address the circumstances that precipitated the need of leave. An employee seeking intermittent paid family leave is required to provide the Authority 15 days' notice unless an emergency or other unforeseen circumstance precludes prior notice. The employee seeking intermittent leave shall make a reasonable attempt to schedule leave in a non-disruptive manner. Employees requesting such leave shall provide the Authority with a regular schedule of days for intermittent leave.

Employees may also be eligible for an unpaid leave for up to twenty-six (26) workweeks in a year to care for a family member on active duty in the military or a covered veteran (a covered veteran is an individual who was discharged or released under conditions other than a dishonorable at any time during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran) with a serious injury or illness incurred in the line of duty on active duty for which the service member is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, or up to twelve (12) weeks in a year for qualifying exigency. A qualifying exigency occurs when a military member is called to covered active duty (requires deployment to a foreign country) and a close member of his/her family must attend official ceremonies or family support or assistance meetings, there is a short-notice deployment, to attend to childcare matters, attend to financial and/or legal matters, or counseling. A serious injury or illness means an injury or illness incurred by a covered service member in the line of duty on active duty that may render the service member medically unfit to perform the duties or his or her office, grade, rank or rating.

A serious injury or illness also means an injury or illness that was incurred by the covered veteran in the line of duty on active duty in the Armed Forces or that existed before the veteran's active duty and was aggravated by service in the line of duty on active duty, and that is either:

1. A continuation of a serious injury or illness that was incurred or aggravated when the veteran was a member of the Armed Forces and rendered the service member unable to perform the duties of the service member's office, grade, rank or rating; or

2. A physical or mental condition for which the veteran has received a U.S. Department of Veterans Affairs Service-Related Disability Rating (VASRD) of 50 percent or greater, and the need for military caregiver leave is related to that condition; or

3. A physical or mental condition that substantially impairs the veteran's ability to work because of a disability or disabilities related to military service, or would do so absent treatment; or

4. An injury that is the basis for the veteran's enrollment in the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers.

Any one of these definitions meets the FMLA's definition of a serious injury or illness for a covered veteran regardless of whether the injury or illness manifested before or after the individual became a veteran.

Upon employer's request, an employee must provide a copy of the covered military member's active duty orders to support request for qualifying exigency leave. In addition, upon an employer's request, certification for qualifying exigency leave must be supported by a certification containing the following information:

- A statement or description of appropriate facts regarding the qualifying exigency for which leave is needed;
- Approximate date on which the qualifying exigency commenced or will commence;
- Beginning and end dates for leave to be taken for a single continuous period of time;
- An estimate of the frequency and duration of the qualifying exigency if leave is needed on a reduced scheduled basis or intermittently; and
- If the qualifying exigency requires meeting with a third party, the contact information for the third party and the description of the purpose of the meeting.

Eligible employees may also take leave to care for a military member's parent who is incapable of self-care when the care is necessitated by the member's covered active duty. Such care may include arranging for alternative care, providing care on an immediate basis, admitting or transferring the parent to a care facility, or attending meetings with staff at a care facility.

Employees who request qualifying exigency leave to spend time with a military member on Rest & Recuperation may take up to a maximum of 15 calendar days. Upon an employer's request, an employee must provide a copy of the military member's Rest & Recuperation leave orders, or other documentation issued by the military setting forth the dates of the military member's leave.

<u>Employment While on FMLA Leave</u> – An employee designated for FMLA leave is prohibited from performing any services on a full-time basis for any person for whom the employee did not provide services immediately prior to commencement of the leave. An employee using FMLA leave may commence part-time employment that shall not exceed half the regularly scheduled hours worked for the Employer. The employee may continue the part-time employment that commenced prior to the FMLA leave at the same number of hours that the staff member was regularly scheduled prior to such leave.

NJFLA Leave – The NJFLA entitles eligible employees with up to twelve (12) weeks of unpaid, job-protected leave in a defined twenty-four (24) month period for the following reasons:

- the birth of a child and in order to care for such child;
- the placement of a child with the employee for adoption or foster care;
- in order to care for the family member of the employee who is suffering from a serious health condition;
- In the event of a state of emergency declared by the Governor, or when indicated to be needed by the Commissioner of Health or other public health authority, an epidemic of a communicable

disease, a known or suspected exposure to the communicable disease, or efforts to prevent spread of a communicable disease, which:

- requires in-home care or treatment of a child due to the closure of the school or place of care of the child of the employee, by order of a public official due to the epidemic or other public health emergency;
- prompts the issuance by a public health authority of a determination, including by mandatory quarantine, requiring or imposing responsive or prophylactic measures as a result of illness caused by an epidemic of a communicable disease or known or suspected exposure to the communicable disease because the presence in the community of a family member in need of care by the employee, would jeopardize the health of others; or
- results in the recommendation of a health care provider or public health authority, that a family member in need of care by the employee voluntarily undergo self-quarantine as a result of suspected exposure to a communicable disease because the presence in the community of that family member in need of care by the employee, would jeopardize the health of others.

<u>NJFLA Eligibility</u> – To be eligible for NJFLA leave, an employee must have: (i) worked for the Employer for at leave twelve (12) months; and (ii) worked at least 1,000 hours in the twelve (12) months immediately preceding commencement of the leave. The calculation of the twelve-month period to determine eligibility shall commence with the commencement of the NJFLA leave. NJFLA leave taken for the birth or adoption of a healthy child may commence at any time within a year after the date of the birth or placement for adoption.

The Employer shall grant a family leave under the NJFLA to more than one employee from the same family at the same time, provided such employees are otherwise eligible for the leave. N.J.A.C. 13:14-1.12.

<u>Employment While on NJFLA Leave</u> – An employee designated for NJFLA leave is prohibited from performing any services on a full-time basis for any person for whom the employee did not provide services immediately prior to commencement of the leave. An employee on NJFLA leave may commence part-time employment that shall not exceed half the regularly scheduled hours worked for the Employer. The employee may continue the part-time employment that commenced prior to the NJFLA leave at the same number of hours that the staff member was regularly scheduled prior to such leave.

<u>NJFLA Entitlement Period</u> – The method to determine the twenty-four (24) month period in which the twelve (12) weeks of NJFLA leave entitlement occurs will be a "rolling" twenty-four (24) month period measured backward from the date an employee uses any leave.
Intermittent and/or Reduced Schedule Leave – Requests for intermittent and/or reduced schedule leave under both the FMLA and the NJFLA shall be reviewed by the Employer on a case-by-case basis and in accordance with the federal and State laws and regulations promulgated thereto.

<u>Relationship to Other Laws</u> – If the employee is eligible for leave for reasons provided under both the FMLA and NJFLA, then the leave time taken shall be concurrent and be applied to both laws. In the event the reason for the family leave is recognized under one law and not the other law, the employee is eligible for each law's leave entitlements within one twelve (12) month period. For example, an employee may use his/her FMLA leave for a twelve (12) week family leave for their own pregnancy, which is considered a "serious health condition" under FMLA, and upon conclusion of the twelve (12) weeks of FMLA leave,

the employee would be eligible for a twelve (12) week NJFLA leave to care for their newborn or any other reasons pursuant to the NJFLA.

During any period of designated FMLA/NJFLA leave, the Employer shall continue an employee's group health benefits in a manner consistent with that to which the employee received immediately preceding commencement of the FMLA/NJFLA leave. The employee is responsible to make all group health benefits contributions during his/her leave period, in accordance with Chapter 78, P.L. 2011, and any applicable collective negotiations agreement. If an employee does not return to work after his/her FMLA/NJFLA leave expires, the Employer is entitled to recover health insurance costs paid while the employee was on FMLA/NJFLA leave.

Following exhaustion and/or termination of the FMLA/NJFLA leave period, the Employer may continue an employee's group health benefits, at the employee's request. In the event that the employee determines to continue his/her group health benefits following a period of designated FMLA/NJFLA leave, he/she shall be solely responsible for the full premium amount due.

During a period of unpaid leave to care for a family member with a serious health condition or a newborn or adopted child or child placed into foster care with the employee, the employee may be eligible for up to twelve (12) weeks of Family Leave Insurance ("FLI") payments through the State in a twelve (12) month period. FLI is a monetary benefit paid by the State and not a separate leave entitlement and will thus run concurrently with FMLA and/or FLA leaves.

You may contact the Human Resource Department for more information and appropriate forms should the need for leave arise.

DOMESTIC VIOLENCE LEAVE*

The New Jersey Security and Financial Empowerment Act, also known as the "NJ SAFE Act", provides protection for employees and their family members who have been the victim of domestic violence or sexual assault. Employees are entitled to twenty (20) days of unpaid protected leave from work to:

- Seek medical attention for physical or psychological injuries;
- Obtain services from a victim services organization, pursue psychological or other counseling;
- Participate in safety planning for temporary or permanent relocation;
- Seek legal assistance to ensure health and safety of the employee or the employee's relative; or
- Attend, participate in, or prepare for a criminal or civil court proceeding relating to an incident of domestic or sexual violence.

To be eligible for the leave, an employee must meet the following criteria:

- The employee or their child, parent, spouse or domestic partner must be a victim of domestic violence or a sexually violent offense;
- The employee must have worked for the employer for at least twelve (12) months and for at least 1,000 hours during the twelve (12) month period immediately preceding the requested leave; and
- The twenty (20) day leave must be taken within one (1) year of the qualifying event.

Employees may take leave on an intermittent basis, but such leave cannot be shorter than one (1) full day. To the extent the leave is foreseeable, employees must provide advance notice. In addition, employee seeking leave must provide proof that they qualify for the leave. Such proof may include restraining order, letter from a prosecutor, proof of conviction, medical documentation or a certification from an agency or professional involved in assisting the employee.

In certain circumstances, the basis for the leave may also qualify under the federal Family and Family Medical Leave Act and/or the New Jersey Family Leave Act. If so, the Monroe Municipal Utilities Authority will treat the leave concurrently with the leave under those statutes. Employees may be required to use accrued paid vacation leave, personal time or sick leave concurrently.

The Monroe Municipal Utilities Authority shall protect the privacy of employees who seek leave by holding the request for leave, the leave itself or the failure to return to work "in the strictest confidence."

The Monroe Municipal Utilities Authority shall not retaliate, harass or discriminate against any employee exercising his/her right to take the leave provided by this policy.

* - JIF Policy

MILITARY LEAVE*

When a full-time employee (either permanent or temporary) who is a member of the reserve component of any United States armed force or the National Guard of any state including the Naval Militia and Air National Guard is required to engage in field training or is called for active duty, the employee will be granted a military leave of absence for the duration of the service. The first thirty (30) workdays of the leave shall be with full pay except that a member of the New Jersey National Guard shall receive full pay for the first ninety (90) days. (Thereafter, the leave shall be without pay but without loss of time) or (thereafter, the employee shall be paid the difference between military salary and the employee's regular salary.) The paid leave will not be counted against any available time off including but not limited to vacation, sick or personal time. A full-time temporary employee who has served less than one year shall not be entitled to paid leave but shall be granted non-paid military leave without loss of time.

Employees on military service will also continue to receive paid health insurance coverage during the period of the paid leave plus an additional thirty (30) calendar days after the paid leave is exhausted. After this period has expired, employees may continue coverage for themselves or their dependents under the Monroe Municipal Utilities Authority's group plan by taking advantage of the COBRA provision. Members of the State administered retirement systems (PERS and PFRS) will continue accruing service and salary credit in the system during the period of paid leave.

Pursuant to the Uniformed Services Employment and Reemployment Rights Act, any employee released from active duty under honorable circumstances shall return to work without loss of privileges or seniority within the following time limits: for service less than thirty-one (31) calendar dates, the employee must return to work on the beginning of the first regularly scheduled workday or eight (8) hours after the end of military duty, with reasonable allowances for commuting; for service of thirty-one (31) to one hundred eighty (180) calendar days, the employee must submit an application for reinstatement within fourteen (14) calendar days after completing military duty; for service greater than one hundred and eighty (180) calendar days, the employee must submit an application for reinstatement within ninety (90) calendar days after completing military duty.

* - JIF Policy

JURY DUTY*

Jury Duty is to be considered an authorized absence.

In the event that an employee is called to jury duty, the employee will be granted time off as the court requires. Such absence from work will not be counted against their regular vacation period of sick leave accumulation. The employee will be paid only from the time required to serve on jury duty, and if there are times an employee is not scheduled for jury duty then in that case, must report for work. All requests for jury duty leave must be filed with the immediate supervisor prior to the leave.

All employees on their return from jury duty must submit to the Authority's Human Resource Department proof of the time they served as a juror.

* - JIF Policy

LEAVES WITHOUT PAY*

Employees may be granted a personal leave of absence for up to six months at the sole discretion of the Executive Director if the leave does not cause undue operational disruption. The leave must include the use of any accrued vacation and sick leave time, regardless of the length of leave requested. The portion of the leave that runs beyond the exhaustion of vacation and sick leave will be without pay or longevity credit. In exceptional circumstances, the Executive Director may extend a leave of absence for an additional six months, if such extension is considered in the best interests of the Monroe Municipal Utilities Authority.

Personal leaves are not granted for the purpose of seeking of accepting employment with another employer, or for extended vacation time. Employees on personal leave of absence for more than two weeks in any month will not receive holiday pay, and will not accrue personal leave, sick leave or vacation time for that month. Health benefits may also be impacted. Refer to the Monroe Municipal Utilities Authority Health Benefits Policy. A personal leave is granted with the understanding that the employee intends to return to work for the Monroe Municipal Utilities Authority. If the employee fails to return within five (5) business days after the expiration of the leave, the employee shall be considered to have resigned.

Each employee granted such leave is responsible to continue to make their contributions by check or cash for their portion of their health benefits. Failure to pay your benefits by the outlined weekly due date may result in the termination of your health benefits. In addition, in order to continue your Pension Service Credit, the employee will need to continue to make their weekly Pension contribution or may opt out of doing so, however, the employee will not receive pension service credit for the period of leave.

* - JIF Policy

WORKERS COMPENSATION

WORKERS COMPENSATION POLICY*

Employees who suffer job-related injuries and illnesses may be entitled to medical expenses, lost income and other compensation under the New Jersey Workers Compensation Act. The Authority covers workers compensation benefits (through its membership in a joint insurance fund) (with a self-insurance plan) at the employee's full rate of pay during the time which is prescribed by the Workers Compensation Physician. Any occupational injury or illness must be immediately reported to the supervisor. All required medical treatment must be performed by a Workers Compensation Physician appointed by (the joint insurance fund). The Authority and payment for unauthorized medical treatment may not be covered pursuant to the Act. No temporary Workers' Compensation benefits other than the payment of medical bills shall be paid until the employee has been disabled for a period of seven (7) calendar days from the work-related injury, unless otherwise required by law.

Unless explicitly provided for in a bargaining agreement, the Authority will only pay, either directly or through its Workers' Compensation insurer, those benefits that are specifically provided for under the Workers' Compensation Act and will not supplement these benefits with additional benefits pursuant to NJSA 11A:6-8.

While receiving workers' compensation benefits, the pension portion of an employee's benefits will still be paid by the Authority. If, however, an employee is receiving workers' compensation with pay, (which is defined as one hundred (100%) percent compensation of salary) the employee is responsible for all deductions, including pension.

The Authority will not tolerate retaliation or discrimination against an individual because the individual has filed a claim for workers' compensation benefits. This prohibition includes denying or limiting any request for leave because an individual asserted a claim for workers' compensation benefits.

<u>Workers' Compensation Light Duty Policy.</u> The Authority will endeavor to bring employees with temporary work-related injuries or illnesses back on the job as soon as possible. The Authority may recognize a special obligation arising out of the employment relationship and create a temporary light duty position for an employee when s/he has been injured while performing work for the Authority and, as a consequence, is unable to perform his/her regular job duties.

The Authority will not treat an employee with a disability less favorably than an individual without a disability or screen out an individual on the basis of disability in granting such requests for light duty. The Authority will grant such request, at its sole discretion, and on a case-by case basis in consideration of the medical report submitted by the workers' compensation physician, the recommendation of the insuring entity, and staffing needs and requirements. The Authority reserves the right to grant, refuse or terminate a light duty assignment at any time without cause unless it is in conflict with the mandates of the ADA, FMLA, or NJFLA or other state or federal leave laws, where applicable.

Upon return to work on light or full duty, if physical or occupational therapy is prescribed by your physician, it is the Employee's responsibility to schedule their appointments outside of work hours. Alternatively, any appointments that fall during work hours are the responsibility of the employee and said employee is required to use their accrued sick/vacation/personal time. If said employee

* - JIF Policy

does not have any available accrued leave time left, the employee will not be paid for time missed from work due to appointments.

The employee and/or the Third Party Administrator ("TPA") are obligated to inform the Authority of the employee's medical progress and the Authority shall have the right to review same periodically. Light duty assignments may be in any department and not just the employee's normal department. Employees on light duty will receive their regular salaries. If light duty is approved, the employee or TPA must keep the Executive Director and/or designated Human Resources Official informed of the medical progress. If, at the end of light duty period the employee is not able to return to work without restrictions, the employee should contact the Executive Director and/or designated Human Resources Official to discuss his or her options under state or federal law.

This policy does not affect an employee's rights under the Americans with Disabilities Act, the Family and Medical Leave Act, the Fair Labor Standards Act, the Contagious or Life-Threatening Illnesses Policy, or other Federal or State law.

TRANSITIONAL DUTY POLICY

The Monroe Municipal Utilities Authority will endeavor to bring all employees with temporary disabilities back on the job as soon as possible and may assign transitional duty to employees who temporarily cannot perform the essential functions of their positions because of injury or illness. Transitional duty is not guaranteed and will not exceed 45 workdays. If a department already has one employee on transitional duty, it is unlikely that another employee from that department will be assigned transitional duty.

An employee requesting transitional duty or the Workers Compensation Physician shall notify the Executive Director as soon as the temporarily disabled employee is able to return to work with restrictions. Transitional duty will only be assigned if the employee will probably be able to perform the essential functions of the position after the transitional duty period. The Executive Director will consult with the Department Head to determine if there is any meaningful work that can be performed consistent with the restrictions. Transitional duty assignments may be in any department and not just the employee's normal department. The Executive Director will decide if it is in the best interest of the MMUA to approve a transitional duty request and will notify the employee of the decision. The MMUA reserves the right to terminate the transitional duty assignment at any time without cause.

Employees may not refuse transitional duty assignments that are recommended by the Workers Compensation Physician. In such cases, failure to report to work as directed shall constitute immediate grounds for dismissal. If the employee believes that the transitional duty assignment is beyond the employee's abilities, the employee may request a meeting with the Executive Director who will render a written response within 24 hours.

Employees on transitional duty will receive their regular salaries and are prohibited from engaging in any outside employment of any kind unless they receive prior written approval from the Executive Director. If transitional duty is approved, the employee or Workers Compensation Physician must keep the Executive Director informed of the medical progress. **Upon return to work on light or full duty, if physical or occupational therapy is prescribed by your physician, it is the Employee's responsibility to schedule their appointments outside of work hours. Alternatively, any appointments that fall during work hours are the responsibility of the employee and said employee is required to use their accrued sick/vacation/personal time. If said employee does not have any available accrued leave time left, the employee will not be paid for time missed from work due to appointments.**

If at the end of transitional duty period the employee is not able to return to work without restrictions, the MMUA reserves the right at its sole discretion to extend the transitional duty or place the employee back on Workers Compensation or disability. This policy does not affect an employee's rights under the American with Disabilities Act, the Family and Medical Leave Act, the Fair Labor Standards Act, the Contagious or Life-Threatening Illnesses Policy, or other Federal or State laws.

DOMESTIC VIOLENCE POLICY*

I. Purpose:

The Purpose of the State of New Jersey Domestic Violence Policy for Public Employers (herein "policy") is to set forth a uniform domestic violence policy for all public employers to adopt in accordance with N.J.S.A. 11A:2-6a. The purpose of this policy is also to encourage employees who are victims of domestic violence, and those impacted by domestic violence, to seek assistance from their human resources officers and provide a standard for human resources officers to follow when responding to employees.

II. Definitions:

The following terms are defined solely for the purpose of this policy:

Domestic Violence: Acts or threatened acts, that are used by a perpetrator to gain power and control over a current or former spouse, family member, household member, intimate partner, someone the perpetrator dated, or person with whom the perpetrator shares a child in common or anticipates having a child in common if one of the parties is pregnant. Domestic violence includes but is not limited to the following: physical violence; injury; intimidation; sexual violence or abuse; emotional and/or psychological intimidation; verbal abuse; threats; harassment; cyber harassment; stalking; economic abuse or control; damaging property to intimidate or attempt to control the behavior of a person in a relationship with the perpetrator; strangulation; or abuse of animals or pets.

Abuser/Perpetrator: An individual who commits or threatens to commit an act of domestic violence, including unwarranted violence against individuals and animals. Other abusive behaviors and forms of violence can include the following: bullying, humiliating, isolating, intimidating, harassing, stalking, or threatening the victim, disturbing someone's peace, or destroying someone's property.

Human Resources Officer (HRO): An Employee of a public employer with a human resources job title, or its equivalent, who is responsible for orienting, training, counseling, and appraising staff. Persons designated by the employer as the primary or secondary contact to assist employees in reporting domestic violence incidents.

Intimate Partner: Partners of any sexual orientation or preference who have been legally married or formerly married to one another, have a child or children in common, or anticipate having a child in common if one party is pregnant. Intimate partner also includes those who live together or have lived together, as well as persons who are dating or have dated in the past.

1. **Temporary Restraining Order (TRO):** A civil court order issued by a judge to protect the life, health or well-being of a victim. TROs can prohibit domestic violence offenders from having contact with victims, either in person or through any means of communication, including third parties. TROs also can prohibit offenders from a victim's home and workplace. A violation of a TRO may be a criminal offense. A TRO will last approximately 10 business days, or until a court

* - JIF Policy

holds a hearing to determine if a Final Restraining Order (FRO) is needed. In New Jersey, there is no expiration of a FRO.

2. **Victim:** A person who is 18 years of age or older or who is an emancipated minor and who has been subjected to domestic violence by a spouse, former spouse, or any other person who is present household member or was at any time a household member. A victim of domestic violence is also any person, regardless of age, who has been subjected to domestic violence by one of the following actors: a person with whom the victim has a child in common; a person with whom the victim anticipates having a child in common, if one of the parties is pregnant; and a person with whom the victim has had a dating relationship.
3. **Workplace Related Incidents:** Incidents of domestic violence, sexual violence, dating violence, and stalking, including acts, attempted acts, or threatened acts by or against employees, the families of employees, and/or their property, that imperil the safety, well-being, or productivity of any person associated with a public employee in the State of New Jersey, regardless of whether the act occurred in or outside the organization's physical workplace. An employee is considered to be in the workplace while in or using the resources of the employer. This includes, but is not limited to, facilities, work sites, equipment, vehicles, or while on work-related travel.

III. Persons Covered by This Policy:

All New Jersey public employees are covered under this policy. A State of New Jersey public employer is any state, county, municipality, school district, or other political subdivision thereof, and any agency, authority, or instrumentality of the foregoing. Casual/seasonal employees, interns, volunteers and temporary employees of any public employer at any workplace location are also covered under this policy.

IV. Responsibility of Employers to Designate a Human Resources Officer:

All public employers shall designate an HRO to assist employees who are victims of domestic violence.

The designated HRO must receive training on responding to and assisting employees who are domestic violence victims in accordance with this policy. Should the HRO be unavailable at any time, the employer must designate a secondary HRO, who must also be appropriately trained to respond and assist domestic violence victims pursuant to this policy.

Managers and supervisors are often aware of circumstances involving an employee who is experiencing domestic violence. Managers and supervisors are required to refer any employee who is experiencing domestic violence or who report witnessing domestic violence to the designated HRO. Managers and supervisors must maintain confidentiality, to the extent possible, and be sensitive, compassionate, and respectful to the needs of persons who are victims of domestic violence. The name and contact information of the designated HRO must be provided to all employees.

This policy does not supersede applicable laws, guidelines, standard operating procedures, internal affairs policies, or New Jersey Attorney General directives and guidelines that impose a duty to report. For example. If there is any indication a child may also be a victim, reporting is mandatory to the Department of Children and Families, Child Protection and Permanency, under N.J.S.A 9:6-8.13.

V. Domestic Violence Reporting Procedures:

Employees who are victims of domestic violence are encouraged to seek immediate assistance from their HRO. Employees who have information about or witness an act of domestic violence against an employee, are encouraged to report that information to the designated HRO, unless the employee is required to report the domestic violence pursuant to applicable laws, guidelines, standard operating procedures, internal affairs policies, or New Jersey Attorney General directives and guidelines that impose a duty to report, in which case the employee must so report to the appropriate authority in addition to reporting to the designated HRO. Nothing in this policy shall preclude an employee from contacting 911 in emergency situations. Indeed, HROs shall remind employees to contact 911 if they are in immediate danger.

Each designated HRO shall:

- **A.** Immediately respond to an employee upon request and provide a safe and confidential location to allow the employee to discuss the circumstances surrounding the domestic violence incident and the request for assistance.
- **B.** Determine whether there is an imminent and emergent need to contact 911 and/or local law enforcement.
- **C.** Provide the employee with resource information and a confidential telephone line to make necessary calls for services for emergent intervention and supportive services, when appropriate. The HRO or the employee can contact the appropriate Employee Assistance Program to assist with securing resources and confidential services.
- **D.** Refer the employee to the provisions and protections of The New Jersey Security and Financial Empowerment Act, N.J.S.A. 34:11C-1 et seq. (NJ SAFE Act), referenced under section VIII of this policy.
- **E.** If there is a report of sexual assault or abuse, the victim should be offered the services of the Sexual Assault Response Team.
- **F.** Maintain the confidentiality of the employee and all parties involved, to the extent practical and appropriate under the circumstances, pursuant to this policy. (See Section VI)
- **G.** Upon the employee's consent, the employee may provide the HRO with copies of any TROs, FROs, and/or civil restraint agreements that pertain to restraints in the work place and ensure that security personnel are aware of the names of individuals who are prohibited from appearing at the work location while the employee who sought the restraining order is present. All copies of TROs and FROs must be kept in a separate confidential personnel file.

VI. Confidentiality Policy

In responding to reports of domestic violence, the HRO shall seek to maintain confidentiality to protect an employee making a report of, witnessing, or experiencing domestic violence, to the extent practical and appropriate under the circumstances and allowed by law. Thus, this policy does not supersede applicable laws, guidelines, standard operating procedures, internal affairs policies, or New Jersey Attorney General directives and guidelines that impose a duty to report.

This confidentiality policy shall not prevent disclosure where to do so would result in physical harm to any person or jeopardize safety within the workplace. When information must be disclosed to protect the safety of individuals in the workplace, the HRO shall limit the breadth and content of such disclosure to information reasonably necessary to protect the safety of the disclosing employee and others and comply with the law. The HRO shall provide advance notice to the employee who disclosed information, to the extent possible, if the disclosure must be shared with other parties in order to maintain safety in the workplace or elsewhere. The HRO shall also provide the employee with the name and title of the person to whom they intend to provide the employee's statement and shall explain the necessity and purpose regarding the disclosure. For example, if the substance of the disclosure presents a threat to employees, then law enforcement will be alerted immediately.

This policy does not supersede applicable laws, guidelines, standard operating procedures, internal affairs policies, or New Jersey Attorney General directives and guidelines where mandatory reporting is required by the appointing authority or a specific class of employees.

VII CONFIDENTIALITY OF EMPLOYEE RECORDS

To ensure confidentiality and accuracy of information, this policy requires the HRO to keep all documents and reports of domestic violence in confidential personnel file separate from the employee's other personnel records. These records shall be considered personnel records and shall not be government records available for public access under the Open Public Records Act. See N.J.S.A. 47:1A-10.

VIII. THE NEW JERSEY SECURITY AND FINANCIAL EMPOWERMENT ACT

The New Jersey Security and Financial Empowerment Act, N.J.S.A. 34:11C-1, et seq. (NJ SAFE Act), is a law that provides employment protection for victims of domestic or sexual violence.

The NJ SAFE Act allows a maximum of 20 days of unpaid leave in one 12-month period, to be used within 12 months following any act of domestic or sexual violence. To be eligible, the employee must have worked at least 1,000 hours during the 12-month period immediately before the act of domestic or sexual violence. Further, the employee must have worked for an employer in the State that employs 25 or more employees for each working day during 20 or more calendar weeks in the current or immediately preceding calendar year. This leave can be taken intermittently in days, but not hours.

Leave under the NJ SAFE Act may be taken by an employee who is a victim of domestic violence, as that term is defined in N.J.S.A 2C:25-19 and N.J.S.A. 30:4-27.6, respectively. Leave may also be taken by an employee whose child, parent, spouse, domestic partner, civil union partner, or other relationships as defined in applicable statutes is a victim of domestic or sexual violence.

Leave under the NJ SAFE Act may be taken for the purpose of engaging in any of the following activities, for themselves, or a child, parent, spouse, domestic partner, or a civil union partner, as they relate to an incident of domestic or sexual violence:

1. Seeking medical attention;

2. Obtaining services from a victim services organization;
3. Obtaining psychological or other counseling;
4. Participating in safety planning, temporarily or permanently relocating, or taking other actions to increase safety;
5. Seeking legal assistance or remedies to ensure health and safety of the victim; or
6. Attending, participating in, or preparing for a criminal or civil court proceeding relating to an incident of domestic or sexual violence.

The full text of the New Jersey SAFE Act is provided in the Appendix to this policy.

IX. PUBLIC EMPLOYER DOMESTIC VIOLENCE ACTION PLAN

Public employers in the State of New Jersey shall develop an action plan to identify, respond to, and correct employee performance issues that are caused by domestic violence, pursuant to N.J.S.A. 11A:2-6a, and in accordance with the following guidelines:

A. Designate an HRO with responsibilities pursuant to Sections IV and V of this policy.
B. Recognize that an employee may need an accommodation as the employee may experience temporary difficulty fulfilling job responsibilities.
C. Provide reasonable accommodations to ensure the employee's safety. Reasonable accommodations may include, but are not limited to, the following: implantation of safety measures; transfer or reassignment; modified work schedule; change in work telephone number or work-station location; assistance in documenting the violence occurring in the workplace; an implemented safety procedure, or other accommodation approved by the employer.
D. Advise the employee of information concerning the NJ SAFE Act; Family and Medical Leave Act (FMLA); or Family Leave Act (FLA); Temporary Disability Insurance (TDI); or Americans with Disabilities (ADA); or other reasonable flexible leave options when an employee, or his or her child, parent, spouse, domestic partner, civil union partner, or other relationships as defined in applicable statutes is a victim of domestic violence.
E. Commit to adherence to the provisions of the NJ SAFE Act, including that the employer will not retaliate against, terminate, or discipline any employee for reporting information about incidents of domestic violence, as defined in this policy, if the victim provides notice to their Human Resources Office of the status or if the Human Resources Office has reason to believe an employee is a victim of domestic violence.
F. Advise any employee, who believes he or she has been subjected to adverse action as a result of making a report pursuant to this policy, of the civil right of action under the NJ SAFE ACT. And advise any employee to contact their designated Labor Relations Officer, Conscientious Employees Protection Act (CEPA) Officer and/or Equal Employment Opportunity Officer in the event they believe the adverse action is a violation of their collective bargaining agreement, the Conscientious Employees Protection Act or the New Jersey Law Against Discrimination and corresponding policies.
G. Employers, their designated HRO, and employees should familiarize themselves with this policy. This policy shall be provided to all employees upon execution and to all new employees upon

hiring. Information and resources about domestic violence are encouraged to be placed in visible areas, such as restrooms, cafeterias, breakrooms, and where other resource information is located.

X. RESOURCES

This policy provides an Appendix listing resources and program information readily available to assist victims of domestic violence. These resources should be provided by the designated HRO to any victim of domestic violence at the time of reporting.

XI. DISTRIBUTION OF POLICY

The Civil Service Commission and the Division of Local Government Services in the Department of Community Affairs shall distribute this policy, and any modifications thereto, to the public employers. The Director of the Division of Local Government Services shall release Local Finance Notices setting forth any changes to this policy, as changes occur.

XII. OTHER APPLICABLE REQUIREMENTS

In addition to this policy, the HRO and the public employer's appointing authority must follow all applicable laws, guidelines, standard operating procedures, internal affairs policies, and New Jersey Attorney General directives and guidelines that impose a duty to report. Additionally, to the extent that the procedures set forth in this policy conflict with collective negotiated agreements or with the Family Educational Rights and Privacy Act (FERPA), the provisions of the negotiated agreements and the provisions of FERPA control.

XIII. POLICY MODIFICATIONS AND REVIEW

A public employer may seek to modify this policy, to create additional protocols to protect victims of domestic violence but may not modify in a way that reduces or compromises the safeguards and processes set out in this policy.

The Civil Service Commission will review and modify this policy periodically and as needed.

XIV. POLICY ENFORCEABILITY

The provisions of this policy are intended to be implemented by the Civil Service Commission. These provisions do not create any promises or rights that may be enforced by any persons or entities.

XV. POLICY INQUIRIES & EFFECTIVE DATE

Any questions concerning the interpretation or implementation of this policy shall be addressed to the Chair/Chief Executive Officer of the Civil Service Commission, or their designee. This policy shall be enforceable upon the HRO's completion of training on this policy.

PROTECTION AND SAFE TREATMENT OF MINORS*

The Employer is fully committed to protecting the health, safety and welfare of minors who interact with officials, employees, and volunteers of the Employer to the maximum extent possible and has adopted a policy which establishes the guidelines for officials, employees, and volunteers who set policy for the Employer or may work with or interact with individuals under 18 years of age, and those who supervise employees, and volunteers who may work with or interact with individuals under 18 years of age, with the goal of promoting the safety and wellbeing of minors. The full policy is available for review in the Employer's Personnel, Policies and Procedures Manual.

* - JIF Policy

DISCIPLINARY PROCEDURE*

Listed below are examples of the types of behavior for which an employee may be subject to discipline, including termination. This list is not all inclusive. The types of behavior and conduct that the Authority considers inappropriate or improper and which could lead to disciplinary action, up to and including termination of employment include but are not limited to the following examples:

- Failure to maintain workplace area cleanliness and orderliness;
- Failure to treat residents, visitors and fellow employees in a courteous manner;
- Gambling on Authority property;
- Smoking where prohibited by ordinance, law or Authority rules.
- Improper attire, inappropriate personal appearance or any other violation of the Appearance Policy;
- Falsification of public records, including attendance records, timecards and other personnel records;
- Excessive, unnecessary or unauthorized use of Authority supplies for personal purposes;
- Failure to report absence;
- Soliciting or accepting gratuities from residents;
- Harassment of co-workers and/or volunteers and/or visitors;
- Theft of or attempted theft of property belonging to the Monroe MUA, fellow employees, volunteers or visitors;
- Failure to report to work day or days prior to or following a vacation, holiday and/or leave, and/or any other unauthorized day of absence;
- Fighting at any time on Authority property, job site, or any property where Authority business is being conducted;
- Being under the influence of intoxicants (e.g. liquor) or illegal drugs (e.g. cocaine or marijuana) on Authority property and at any time during work hours;
- Insubordination;
- Entering the building without permission during non-scheduled work hours;
- Soliciting on Authority property during work time. This includes but is not limited to distribution of literature or products or soliciting membership in fraternal, religious, social or political organizations, and/or sales of products;
- Careless waste of materials or abuse of tools, equipment or supplies;
- Deliberate destruction or damage to Authority or suppliers' property;
- Sleeping on the job;
- Carrying weapons of any kind on Authority premises and/or during work hours, unless carrying a weapon is a function of your job duties;
- Violation of established safety and fire regulations;
- Unscheduled absence, chronic or excessive absence or lateness;
- Chronic tardiness;
- Unauthorized absence from work area, and/or roaming or loitering on the premises, during scheduled work hours;

* - JIF Policy

- Defacing walls, bulletin boards, or any other Authority or supplier property;
- Failure to perform duties, inefficiency or substandard performance;
- Unauthorized disclosure of confidential Authority information;
- Horseplay, pranks, practical jokes, disorderly conduct and use of abusive and/or obscene language on Authority premises;
- Deliberate delay or restriction of your work effort, and/or incitement of others to delay or restrict their work effort;
- Conviction of a crime or disorderly person's offense. Employees convicted of these offenses shall report the conviction in writing to Human Resources within five (5) working days of the conviction;
- Violating any Monroe Municipal Utilities Authority rules, procedures, policies or regulations;
- Conduct unbecoming a public employee;
- Violation of Federal, State, or Monroe Municipal Utilities Authority laws, rules or regulations concerning drug and alcohol use and possession;
- Misuse of public property, including motor vehicles;
- Unauthorized use of computers, internet and email;
- Other sufficient cause;

Major disciplinary action includes termination, disciplinary demotion, or suspension or fine exceeding five working days. Minor discipline includes a formal, written reprimand or a suspension or fine of five working days or less. Employees who object to the terms or conditions of the discipline are entitled to a hearing under the applicable grievance procedure (and Civil Service procedure). In every case involving employee discipline, employees will be provided with an opportunity to respond to charges either verbally or in writing.

In cases of employee misconduct, the Monroe Municipal Utilities Authority believes in corrective action for the purpose of correcting undesirable behavior and preventing a recurrence of that behavior. The corrective action taken will be related to the gravity of the situation, the number and kind of previous infractions and other circumstances. In every case, employees will be given an opportunity to state the situation from their point of view.

In order to correct undesirable behavior, supervisors and managers may utilize the following corrective tools: verbal reprimand; Executive Director review; written reprimand; suspension; fines; and dismissal. At the discretion of the Monroe Municipal Utilities Authority, action may begin at any step, and/or certain steps may be repeated or by-passed, depending on the severity and nature of the infraction and the employee's work/disciplinary record.

Neither this manual nor any other Monroe Municipal Utilities Authority guidelines, policies or practices create an employment contract. Employment with the Monroe Municipal Utilities Authority may be terminated at any time with or without cause or reason by the employee or Monroe Municipal Utilities Authority.

The foregoing violations shall result in disciplinary action. Major disciplinary action includes termination, disciplinary demotion or suspension or fine exceeding five (5) working days. Minor discipline includes a suspension or fine of five (5) working days or less. Under Civil Service regulations, employees may be disciplined for:

- Incompetency, inefficiency or failure to perform duties;
- Insubordination;
- Inability to perform duties;
- Falsification of public records including personnel records;
- Violation of Monroe Municipal Utilities Authority policies, procedures, rules or regulations;
- Chronic or excessive absenteeism or lateness;
- Conviction of a crime;
- Conduct unbecoming a public employee;
- Neglect of duty;
- Misuse of public property, including motor vehicles;
- Discrimination that affects equal employment opportunity (as defined in N.J.A.C. 4A:7-1.1), including sexual harassment;
- Violation of Federal, State, laws, or Monroe Municipal Utilities Authority laws, rules or regulations concerning drug and alcohol use by and testing of employees who perform functions related to the operation of commercial motor vehicles, and State and local policies issued thereunder;
- Violation of New Jersey residency requirements as set forth in P.L. 2011, c. 70; and
- Other sufficient cause.

Employees who wish to appeal major or minor discipline must do so in writing within five (5) working days. Employees who timely appeal such discipline are entitled to a hearing. Notice of Major Disciplinary Action shall be set forth on a preliminary notice of Disciplinary Action. If said Notice is not followed by a timely appeal or if a decision is reached after departmental hearing sustaining major discipline, it shall me formalized by way of a Final Notice of Disciplinary Action. Employees have twenty (20) days to appeal therefrom to the Civil Service Commission.

All discharges will be accordance with Federal and State laws including the New Jersey Civil Service Act as well as applicable collective bargaining agreements.

Resignation resulting from Unauthorized Absence:

Any employee who is absent from duty for five (5) consecutive business days without notice and approval of his Supervisor of the reason for such absence and the time he expects to return, or who fails to report for duty within five (5) consecutive business days after the expiration of any authorized leave, shall be held to have resigned not in good standing. A permanent employee resigned in this fashion, shall be notified of his entitlement to a departmental hearing by way of a Preliminary Notice of Disciplinary Action.

COMPLAINT PROCEDURE*

Maintaining a harassment-free workplace requires the cooperation of all employees. It is very important for employees to report to the Authority any conduct they believe is improper under our policies against discrimination and harassment, regardless of whether the conduct of concern is directed at the employee personally or at someone else.

This complaint procedure has broad application. It applies to all employee or non-employee complaints or reports of improper conduct involving discrimination, harassment, retaliation, threats of harm or intimidation or other matters involving work with the Township or work related conditions including but not limited to violations of other Authority policies, safety related concerns or complaints of a general nature. A complaint of generalized nature should be directed to your supervisor. Please follow the procedure below for complaints regarding any type of perceived unlawful conduct including but not limited to unlawful discrimination, harassment, retaliation or threats of harm. For complaints regarding a violation of the Authority's Whistleblower Policy, please refer to that policy.

Employees who observe actions they believe to constitute harassment, sexual harassment, or any other workplace wrongdoing should immediately report the matter to their supervisor, or, if they prefer, or do not think that the matter can be discussed with their supervisor, they should contact the Department Head, Executive Director/Superintendent, Human Resources or the Authority Solicitor. If the complaint involves the Executive Director/Superintendent, the reporting employee should contact the Authority Solicitor. Reporting of such incidents is encouraged both when an employee feels that he or she is subject to such incidents or observes such incidents in reference to other employees. Employees should report incidents in writing using the Employee Complaint Form but may make a verbal complaint at their discretion. Employee questions about what constitutes harassment, sexual harassment, or any other workplace wrongdoing should be directed to their Department Head, Human Resources, or the Executive Director/Superintendent. All reports of harassment, sexual harassment, or other wrongdoing will be promptly investigated by a person who is not involved in the alleged harassment or wrongdoing.

No employee will be penalized in any way for reporting a complaint. There will be no discrimination or retaliation against any individual who files a good-faith harassment complaint, even if the investigation produces insufficient evidence to support the complaint, and even if the charges cannot be proven. There will be no discrimination or retaliation against any other individual who participates in the investigation of a complaint.

If the investigation substantiates the complaint, appropriate corrective and/or disciplinary action will be swiftly pursued. Disciplinary action up to and including discharge will also be taken against individuals who make false or frivolous accusations, such as those made maliciously or recklessly. Further, any employee who is determined, after an investigation, to have engaged in conduct which violates this or another Authority policy will be subject to appropriate disciplinary action, up to and including discharge. Actions taken internally to investigate and resolve harassment complaints will be conducted confidentially to the extent practicable and appropriate in order to protect the privacy of persons involved. This is not a guarantee that all matters will remain confidential as to all persons at all times. Any investigation may

* - JIF Policy

include interviews with the parties involved in the incident, and if necessary, with individuals who may have observed the incident or conduct or who have other relevant knowledge. The complaining employee will be notified of a decision at the conclusion of the investigation within a reasonable time from the date of the report of incident.

False Claims of Harassment

Any employee who makes a false claim of harassment will be disciplined according to Authority policy.

Liability for Sexual Harassment

Any employee of the Authority, whether co-worker, supervisor or manager, who is found to have engaged in unlawful harassment is subject to disciplinary action up to and including termination from employment.

GREIVANCE POLICY

A grievance is any formal dispute concerning the interpretation, application and enforcement of any personnel policy or procedure of the Monroe Municipal Utilities Authority. All grievances from non-union employees must be presented within five (5) working days after arising and failure to report a grievance within such time shall be deemed as a waiver of the grievance. In the event of a settlement or ruling that results in a determination of monetary liability, such liability shall not exceed more than thirty (30) working days prior to the date the grievance was first presented in writing.

Step One:

Any employee or group of employees with a grievance shall verbally communicate the grievance to the Supervisor who will discuss the matter with the Executive Director. The Supervisor will communicate the decision to the employee within five (5) working days.

Step Two:

If the employee is not satisfied with the decision, the employee must submit a written grievance to the Executive Director detailing the facts and the relief requested. The decision in step one will be deemed final if the employee fails to submit a written grievance within five (5) working days of the step one decision. After consulting the Solicitor as appropriate, the Executive Director will render a written decision to the employee within five (5) working days after receipt of the written grievance.

These limitations do not apply to employee complaints made under the General Anti-Harassment Policy, the Anti-Sexual Harassment Policy or the Whistle Blower Policy.

DRUG AND ALCOHOL FREE WORKPLACE POLICY*

The possession or use of unlawful drugs and the abuse of alcohol pose a threat to the health and safety of all employees. To that end, the Employer has adopted a Drug and Alcohol-Free Workplace Policy and all employees are subject to the rules and regulations set forth in that policy. Specifically, the manufacturing, distribution, dispensing, and/or use of alcohol or unlawful drugs on the Employer's premises, or during work hours, by employees is strictly prohibited.

Any employee who is observed by a supervisor or Department Head to be intoxicated or under the influence of alcohol and drugs during working hours, or is under reasonable suspicion of same, shall be immediately tested and is subject to discipline, up to and including termination. Employees who are required to maintain a Commercial Driver's License ("CDL") are subject to random drug testing as required by the federal government. Refusal to submit to testing when requested may result in immediate disciplinary action, including termination.

* - JIF Policy

APPENDIX A

CDL Drug and Alcohol Testing Policy*

SECTION A - GENERAL

This policy and 49 CFR Part 40 Regulations of the U. S. Department of Transportation Procedures For Transportation Workplace Drug And Alcohol Testing Programs and Urine Specimen Collection Guidelines, Office of Drug and Alcohol Policy and Compliance, U.S. Department of Transportation, are integral parts of this Policy and apply to all covered employees. They may be viewed at **http://www.dot.gov/odapc** Collection procedures, laboratory procedures, MRO review, alcohol testing, record keeping and all other procedural requirements shall adhere to 49 CFR Part 40.

The Monroe Municipal Utilities Authority (the "Authority" or "Employer") shall test, in accordance with Federal regulations, employees required to have a Commercial Driver's License (CDL) for the use of controlled substances that violate law or Federal regulation and the misuse of alcohol.

PURPOSE *382.101*

The purpose of this policy, in addition to meeting Federal regulations, is to establish a program designed to help prevent accidents and injuries resulting from the misuse of alcohol or use of controlled substances by drivers of commercial motor vehicles.

APPLICABILITY *382.103*

(a) This policy applies to every person of the Authority who operates a commercial motor vehicle in commerce in any State, and is subject to:

(1) The commercial driver's license requirements of part 383;

(2) All Drivers Operating Commercial Motor Vehicles for the Authority; or

(3) The commercial driver's license requirements of the Canadian National Safety Code.

(b) An employer who employs himself/herself as a driver must comply with both the requirements in this policy that apply to employers and the requirements in this policy that apply to drivers. An employer who employs only himself/herself as a driver shall implement a random alcohol and controlled substances testing program of two or more covered employees in the random testing selection pool.

The COVERED EMPLOYEE CERTIFICATE OF RECEIPT contains the name, address, and phone number of the responsible individual(s). The CONTROLLED SUBSTANCES AND ALCOHOL USE AND TESTING POLICY complies with requirements of the Department of Transportation regulations as set forth in 49 CFR § 382 and 49 CFR Part 40. The DER shall be responsible for providing oversight and evaluation on the plan; providing guidance and counseling; reviewing of all discipline applied under this plan for consistency and conformance to human resources policies and procedures; scheduling for types of testing (random, post-accident, reasonable suspicion, etc.); maintaining a locked file system on all test

* - JIF Policy

results; and overseeing the referral of employees for evaluation and treatment. The Authority shall ensure that all covered employees are aware of the provisions and coverage of the Authority's CONTROLLED SUBSTANCES AND ALCOHOL USE AND TESTING POLICY and that all employees are notified prior to testing.

SERVICE AGENT CONTACT INFORMATION

DESIGNATED EMPLOYER REPRESENTATIVE (DER)

NAME: ***DER***

TITLE: ***Title***

ADDRESS: ***Address***

PHONE: ***Phone***

E-MAIL: ***EMAIL***

HOURS WHEN AVAILABLE: ***Hours***

ALTERNATE DESIGNATED EMPLOYER REPRESENTATIVE (DER)

NAME: ***Alternate DER***

MEDICAL REVIEW OFFICER (MRO)

NAME: ***MRO***

ADDRESS: ***MRO Address***

PHONE: **MRO Phone***

FAX: ***MRO Fax***

LABORATORY

NAME: ***LAB***
ADDRESS: ***Address***

PHONE: ***Phone***

SUBSTANCE ABUSE PROFESSIONAL (SAP)

NAME: ***SAP***

* - JIF Policy

ADDRESS: ***SAP Address***

PHONE: ***SAP Phone***

<u>CONSORTIUM/THIRD PARTY ADMINISTRATOR (C/TPA)</u>

NAME: ***TPA***

ADDRESS: ***TPA Address***

PHONE: ***TPA Phone***

THE AUTHORITY'S INDEPENDENT AUTHORITY

This CONTROLLED SUBSTANCES AND ALCOHOL USE AND TESTING POLICY sets forth the requirements of 49 CFR Parts 382 and 40. Those areas of the policy that appear in italic print reflect the Authority's independent authority to require additional provisions with regard to drug and alcohol testing procedures. To the extent the Authority's state specific non-DOT Authority Policy supplements, and does not conflict with applicable DOT Regulations, and current agreements, it is to be followed. In the event that DOT Regulations are applicable to the driver's or applicant's particular situation or issue, the DOT Regulations pre-empt conflicting State Laws, the Authority's non-DOT Policies and all other agreements.

PERIOD OF WORKDAY A DRIVER IS REQUIRED TO BE IN COMPLIANCE

Safety-Sensitive Functions as covered under 49 CFR Part 382: In accordance with 49 CFR 382 drivers who possess CDL licenses are subject to DOT regulated alcohol and drug testing at all times from the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work. Safety-sensitive functions shall include:

(1) All time at an employer or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the employer;
(2) All time inspecting equipment as required by 49 CFR 392.7 and 392.8 or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time;
(3) All time spent at the driving controls of a commercial motor vehicle in operation;
(4) All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth (a berth conforming to the requirements of 49 CFR 393.76);
(5) All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded; and
(6) All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

A driver is required to be in compliance with this policy during that period of the workday when they are on-duty performing *safety-sensitive functions (See Definitions).*

DRIVER FITNESS FOR DUTY *391.11*

DOT regulations provide that the Authority as a DOT regulated employer makes the final determination of who is a qualified individual to drive a commercial motor vehicle. 49 CFR § 391.11(a). The Authority shall not permit a person to drive a commercial motor vehicle unless the person meets all DOT minimum qualifications and such other more stringent qualifications and requirements relating to safety of operation and employee safety and health as it may decide in its judgment and discretion. The Authority shall use the services of independent Certified Medical Examiners, Occupational Medicine Physicians, Medical Review Officers, as well as other medical and industry professionals to make its final fitness for duty determinations.

TESTING PROCEDURES *382.105*

The Authority shall ensure that all alcohol or controlled substances testing conducted under this policy complies with the procedures set forth in 49 CFR part 40. The provisions of 49 CFR part 40 that address alcohol or controlled substances testing are made applicable to the Authority by 382.105.

DEFINITIONS *382.107*

Words or phrases used in this policy are defined in Sections 386.2, 390.5 and 40.3 of Federal regulations, except as provided herein.

<u>Actual knowledge for the purpose of Section B of this policy</u> means actual knowledge by the Authority that a driver has used alcohol or controlled substances based on the Authority's direct observation of the employee, information provided by the driver's previous employer(s), a traffic citation for driving a CMV while under the influence of alcohol or controlled substances or an employee's admission of alcohol or controlled substance use, except as provided in 382.121. Direct observation as used in this definition means observation of alcohol or controlled substances use and does not include observation of employee behavior or physical characteristics sufficient to warrant reasonable suspicion testing under 382.307.

Alcohol means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohol's including methyl and isopropyl alcohol.

Alcohol concentration (or content) means the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test under this policy.

Alcohol use means the drinking or swallowing of any beverage, liquid mixture, or preparation, (including any medication), containing alcohol. *[Caution: Certain brands and types of cough medicines contain alcohol.]*

CFR means Code of Federal Regulations.

Commerce means:

(1) Any trade, traffic or transportation within the jurisdiction of the United States between a place in a State and a place outside of such State, including a place outside of the United States and
(2) Trade, traffic, and transportation in the United States which affects any trade, traffic, and transportation described in (1) of this definition.

It is the position of the Federal Motor Carrier Safety Administrator that the above section (2) language covers all municipal vehicles which fit within the "Commercial Motor Vehicle" definition below, even if that vehicle does not cross state lines.

Commercial driver's license Drug and Alcohol Clearinghouse (Clearinghouse) means the FMCSA database that subpart G of 49 CFR Part 382.701-727 requires employers and service agents to report information to and to query regarding drivers who are subject to the DOT controlled substance and alcohol testing regulations. Effective January 6, 2020, the FMCSA will establish a mandatory database and the following personal information collected and maintained under this part shall be reported to the Clearinghouse:

(1) A verified positive, adulterated, or substituted drug test result;
(2) An alcohol confirmation test with a concentration of 0.04 or higher;
(3) A refusal to submit to any test required by subpart C of this part;
(4) An employer's report of actual knowledge, as defined at § 382.107:
(5) On duty alcohol use pursuant to § 382.205;
(6) Pre-duty alcohol use pursuant to § 382.207;
(7) Alcohol use following an accident pursuant to § 382.209; and
(8) Controlled substance use pursuant to § 382.213;
(9) A substance abuse professional (SAP as defined in § 40.3 of this title) report of the successful completion of the return-to-duty process;
(10) A negative return-to-duty test; and
(11) An employer's report of completion of follow-up testing.

Commercial motor vehicle means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the vehicle:

(1) Has a gross combination weight rating or gross combination weight of 11,794 kilograms or more (26,001 pounds or more), whichever is greater, inclusive of a towed unit(s) with a gross vehicle weight rating or gross vehicle weight of more than 4,536 kilograms (10,000 pounds), whichever is greater; or
(2) Has a gross vehicle weight rating or gross vehicle weight of 11,794 or more kilograms (26,001 or more pounds), whichever is greater; or
(3) Is designed to transport 16 or more passengers, including the driver; or
(4) Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act (49 U.S.C. 5103(b)) and which require the motor vehicle to be placarded under the Hazardous Materials Regulations (49 CFR part 172, subpart F).

Confirmation (or confirmatory) drug test means a second analytical procedure performed on a urine specimen to identify and quantify the presence of a specific drug or drug metabolite.

Confirmation (or confirmatory) validity test means a second test performed on a urine specimen to further support a validity test result.

Confirmed drug test means a confirmation test result received by an MRO from a laboratory.

Consortium/Third party administrator (C/TPA) means a service agent that provides or coordinates one or more drug and/or alcohol testing services to DOT-regulated employers. C/TPAs typically provide or coordinate the provision of a number of such services and perform administrative tasks concerning the operation of the employers' drug and alcohol testing programs. This term includes, but is not limited to, groups of employers who join together to administer, as a single entity, the DOT drug and alcohol testing programs of its members (e.g., having a combined random testing pool). C/TPAs are not “employers” for purposes of Federal regulations.

Controlled substances mean those substances identified in 40.85. As of January 1, 2018, the drugs tested for may include all or some of the following: (1) Amphetamines; (2) Cannabinoids; (3) Cocaine; (4) Phencyclidine (PCP); and (5) Opioids.

Designated employer representative (DER) is an individual identified by the Authority as able to receive communications and test results from service agents and who is authorized to take immediate actions to remove employees from safety-sensitive duties and to make required decisions in the testing and evaluation processes. The individual must be an employee of the Authority. Service agents cannot serve as DERs.

Disabling damage means damage which precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs.

(1) Inclusions. Damage to motor vehicles that could have been driven, but would have been further damaged if so driven.
(2) Exclusions:
   i. Damage which can be remedied temporarily at the scene of the accident without special tools or parts.
   ii. Tire disablement without other damage even if no spare tire is available.
   iii. Headlight or taillight damage.
   iv. Damage to turn signals, horn, or windshield wipers which make them inoperative.

DOT Agency means an agency (or "operating administration") of the United States Department of Transportation administering regulations requiring alcohol and/or drug testing (14 CFR parts 61, 63, 65, 121, and 135; 49 CFR parts 199, 219, 382, 653, and 654) in accordance with 49 CFR part 40.

Driver means any person who operates a commercial motor vehicle. This includes, but is not limited to: Full time, regularly employed Commercial Motor Vehicle drivers; casual, intermittent or occasional drivers; leased drivers and independent owner-operator contractors.

Employer means an entity, *including a municipal employer*, employing one or more employees (including an individual who is self-employed) that is subject to DOT agency regulations requiring compliance with this Federal regulation. The term, as used in this policy, refers to the entity responsible for overall implementation of DOT drug and alcohol program requirements, including individuals employed by the entity who take personnel actions resulting from violations of this policy and any applicable DOT agency regulations. Service agents are not employers for the purpose of Federal regulations.

Licensed medical practitioner means a person who is licensed, certified, and/or registered, in accordance with applicable Federal, State, local, or foreign laws and regulations, to prescribe controlled substances and other drugs.

Negative return-to-duty test means a return-to-duty test with a negative drug result and/or an alcohol test with an alcohol concentration of less than 0.02, as described in § 40.305.

Performing (a safety-sensitive function) means a driver is considered to be performing a safety-sensitive function during any period in which he/she is actually performing, ready to perform, or immediately available to perform any safety-sensitive functions.

Positive alcohol test means an alcohol test with an alcohol concentration of greater than or equal to 0.04.

Positive rate for random drug testing means the number of verified positive results for random drug tests conducted under this part plus the number of refusals of random drug tests required by this part, divided by the total number of random drug tests results (i.e., positives, negatives, and refusals) under this part.

Refuse to submit (to an alcohol or controlled substances test) means that you as a driver:

(a)(1) Fail to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer, consistent with applicable DOT agency regulations, after being directed to do so by the employer. This includes the failure of an employee (including an owner-operator) to appear for a test when called by C/TPA (see §40.61(a));

(2) Fail to remain at the testing site until the testing process is complete. Provided that an employee who leaves the testing site before the testing process commences (see §40.63(c)) for a pre-employment test is not deemed to have refused to test;

(3) Fail to provide a urine specimen for any drug test required by this part or DOT agency regulations; Provided that an employee who does not provide a urine specimen because he or she has left the testing site before the testing process commences (see §40.63(c)) for a pre-employment test is not deemed to have refused to test;

(4) In the case of a directly observed or monitored collection in a drug test, fail to permit the observation or monitoring of your provision of a specimen (see §§40.67(l) and 40.69(g));

(5) Fail to provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure (see §40.193(d)(2));

(6) Fail or decline to take an additional drug test the employer or collector has directed you to take (see, for instance, Sec.40.197 (b));

(7) Fail to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER under Sec. 40.193(d). In the case of a pre-employment drug test, the employee is deemed to have refused to test on this basis only if the pre-employment test is conducted following a contingent offer of employment. If there was no contingent offer of employment, the MRO will cancel the test; or

(8) Fail to cooperate with any part of the testing process (e.g., refuse to empty pockets when directed by the collector, behave in a confrontational way that disrupts the collection process, fail to wash hands after being directed to do so by the collector).

(9) For an observed collection, fail to follow the observer's instructions to raise your clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process.

(10) Possess or wear a prosthetic or other device that could be used to interfere with the collection process.
(11) Admit to the collector or MRO that you adulterated or substituted the specimen.
(12) For a breath alcohol test, refusing to sign the certification at Step 2 of the ATF 40.261 (a) (3).

(b) As an employee, if the MRO reports that you have a verified adulterated or substituted test result, you have refused to take a drug test.

(c) As an employee, if you refuse to take a drug test, you incur the consequences specified under DOT agency regulations for a violation of those DOT agency regulations. 40.191

Safety-sensitive function means all time from the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work. Safety-sensitive functions shall include:

(1) All time at an employer facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the employer;
(2) All time inspecting servicing, or conditioning any commercial motor vehicle at any time;
(3) All time spent at the driving controls of a commercial motor vehicle in operation;
(4) All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, using a vehicle for road clearing, snow removal, trash and recycling removal, remaining in readiness to operate the vehicle, and
(5) All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

Screening test (or initial test) means:

(1) In drug testing, a test to eliminate "negative" urine specimens from further analysis or to identify a specimen that requires additional testing for the presence of drugs.
(2) In alcohol testing, an analytical procedure to determine whether an employee may have a prohibited concentration of alcohol in a breath or saliva specimen.

Service agent means any person or entity, other than an employee of the employer, who provides services to employers and/or employees in connection with DOT drug and alcohol testing requirements. This includes, but is not limited to, collectors, BATs and STTs, laboratories, MROs, substance abuse professionals, and C/TPAs. To act as service agents, persons and organizations must meet DOT qualifications, if applicable. Service agents are not employers for purposes of this part.

Stand-down means the practice of temporarily removing an employee from the performance of safety-sensitive functions based only on a report from a laboratory to the MRO of a confirmed positive test for a drug or drug metabolite, an adulterated test, or a substituted test, before the MRO has completed verification of the test results.

Violation rate for random alcohol testing means the number of 0.04 and above random alcohol confirmation test results conducted under this part plus the number of refusals of random alcohol tests required by this part, divided by the total number of random alcohol screening tests (including refusals) conducted under this part.

PREEMPTION OF STATE AND LOCAL LAWS *382.109*

(a) Except as provided in paragraph (b) of this section, the Federal regulation requiring this alcohol and controlled substances testing preempts any State or local law, rule, regulation, order to the extent that:
    (1) Compliance with both the State or local requirement and the Federal regulation is not possible; or
    (2) Compliance with the State or local requirement is an obstacle to the accomplishment and execution of any requirement of this Federal regulation.

(b) This policy, and the Federal regulation requiring it, shall not be construed to preempt provisions of State criminal law that impose sanctions for reckless conduct leading to actual loss of life, injury, or damage to property, whether the provisions apply specifically to transportation employees, the Authority, or the general public.

OTHER REQUIREMENTS IMPOSED BY THE AUTHORITY *382.111*

Except as expressly provided in this policy, nothing in the Federal regulation 382 and 49 CFR part 40 shall be construed to affect the authority of the Authority, or the rights of drivers, with respect to the use of alcohol, or the use of controlled substances, including authority and rights with respect to testing and rehabilitation. *Accordingly, the Authority may adopt, under its own authority, a Non-DOT drug and alcohol testing program.*

REQUIREMENT FOR NOTICE *382.113*

Before performing an alcohol or controlled substances test under the Federal regulation, the Authority shall notify a driver that the alcohol or controlled substances test is required by Federal regulation. The Authority shall not falsely represent that a test is administered under Federal regulation.

STARTING DATE FOR TESTING PROGRAMS *382.115*

(a) All domestic-domiciled employers must implement the requirements of this policy the date the employer begins commercial motor vehicle operations.
(b) All foreign-domiciled employers must implement the requirements of this policy on the date the employer begins commercial motor vehicle operations in the United States.

PUBLIC INTEREST EXCLUSION *382.117*

The Authority shall not use the services of a service agent who is subject to a public interest exclusion (PIE) in accordance with 49 CFR part 40, Subpart R. *This is a service agent who has been found by the DOT to be disqualified from providing services to DOT regulated employers.*

EMPLOYEE ADMISSION OF ALCOHOL AND CONTROLLED SUBSTANCE USE *382.121*

(a) Employees who admit to alcohol misuse or controlled substances use are not subject to the referral, evaluation and treatment requirements of this policy and 49 CFR part 40, provided that:
(1) The admission is in accordance with the Authority's written voluntary self-identification program or policy that meets the requirements of paragraph (b) of this section;

(2) The driver does not self-identify in order to avoid testing under the requirements of this part;

(3) The driver makes the admission of alcohol misuse or controlled substances use prior to performing a safety sensitive function (i.e., prior to reporting for duty); and

(4) The driver does not perform a safety sensitive function until the Authority is satisfied that the employee has been evaluated and has successfully completed education or treatment requirements in accordance with the self-identification program guidelines.

(b) A qualified voluntary self-identification program or policy must contain the following elements:

(1) It prohibits the Authority from taking adverse action against an employee making a voluntary admission of alcohol misuse or controlled substances use within the parameters of the program or policy and paragraph (a) of this section;
(2) It must allow the employee sufficient opportunity to seek evaluation, education or treatment to establish control over the employee's drug or alcohol problem;
(3) It must permit the employee to return to safety sensitive duties only upon successful completion of an educational or treatment program, as determined by a drug and alcohol abuse evaluation expert, i.e., employee assistance professional, substance abuse professional, or qualified drug and alcohol counselor;
(4) It must ensure that:
    (i) Prior to the employee participating in a safety sensitive function, the employee shall undergo a return to duty test with a result indicating an alcohol concentration of less than 0.02; and/or
    (ii) Prior to the employee participating in a safety sensitive function, the employee shall undergo a return to duty controlled substance test with a verified negative test result for controlled substances use; and
(5) It may incorporate employee monitoring and include non-DOT follow-up testing.

DRIVER IDENTIFICATION ***382.123***

(a) For each alcohol test performed, the Authority shall provide the driver's commercial driver's license number and State of issuance in Step 1, Section B of the Alcohol Testing Form (ATF).

(b) For each controlled substance test performed under this part, the ***Entity Type*** shall provide the following information, which must be recorded as follows:

(i) The driver's commercial driver's license number and State of issuance in Step 1, section C of the Federal Drug Testing Custody and Control Form (CCF).

(ii) The employer's name and other identifying information required in Step 1, section A of the ATF.

EMPLOYEE ASSISTANCE PROGRAM

The Authority's employee assistance program (EAP) is a confidential program designed to assist in the identification and resolution of problems associated with employees impaired by alcohol or drugs, or other personal concerns that may adversely affect employee job performance.

SECTION B - PROHIBITIONS

ALCOHOL CONCENTRATION *382.201*

No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater. If the Authority has actual knowledge that a driver has an alcohol concentration of 0.04 or greater, the driver will not be permitted to perform or continue to perform safety-sensitive functions.

ON-DUTY USE *382.205*

No driver shall use alcohol while performing safety-sensitive functions. If the Authority has actual knowledge that a driver is using alcohol while performing safety-sensitive functions, that driver shall not be permitted to perform or continue to perform safety-sensitive functions.

PRE-DUTY USE *382.207*

No driver shall perform safety-sensitive functions within four (4) hours after using alcohol. If the Authority has actual knowledge of a driver who has used alcohol within four (4) hours, that driver will not be permitted to perform or continue to perform safety-sensitive functions.

USE FOLLOWING AN ACCIDENT *382.209*

No driver required to take a post-accident alcohol test under 382.303 shall use alcohol for eight (8) hours following the accident or until he/she undergoes a post-accident alcohol test, whichever occurs first.

REFUSAL TO SUBMIT TO A REQUIRED ALCOHOL OR CONTROLLED SUBSTANCES TEST *382.211*

No driver shall refuse to submit to a post-accident alcohol or controlled substances test required under 382.303, a random alcohol or controlled substances test required under 382.305, a reasonable suspicion alcohol or controlled substances test required under 382.307, or a follow-up alcohol or controlled substances test required under 382.311. The Authority shall not permit a driver who refuses to submit to such tests to perform or continue to perform safety-sensitive functions.

DISCLOSURE OF OFF-DUTY DUI AND DRUG OFFENSE ARREST AN/OR CONVICTION 382.111

Safety Rule requiring mandatory reporting by Drivers of off – duty DUI and Drug Offense Arrest and/or Conviction. In accordance with the authority granted to the Authority by the DOT in 49 CFR 382.111 to imposed other requirements to prevent alcohol misuse by Drivers, it is mandatory that Drivers disclose to their supervisor by the end of the business day arrest and/or convictions for all alcohol and/or drug related offenses committed while operating any motor vehicle. This will allow the Authority to immediately remove from safety sensitive functions, Drivers who have engaged in off – duty unsafe behavior related to alcohol or drug misuse (which is directly related to their safety sensitive functions performed for the Authority) to make determinations as follows: 1) if the Driver is fit for duty; 2) if the Driver is still qualified under DOT regulations to operate a CMV for the Authority; 3) if the Driver is still insurable at standard rates under the Authority fleet policy; and 4) if the Driver can still meet the essential job functions for the position of Driver. It is an Essential Job Function of every DOT regulated Driver that they be qualified and licensed to operate a CMV without the use of a judicially ordered interlocking device, or similar device as part of a diversion or conviction for an alcohol related offence.

PRE-DUTY DISCLOSURE OF ANY IMPAIRING EFFECT MEDICATION OR SUBSTANCES ***382.213***

(a) No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any controlled substance, except when the use is pursuant to the instructions of a licensed medical practitioner, as defined in 382.107, who has advised the driver that the substance will not adversely affect the driver's ability to safely operate a commercial motor vehicle.

(b) The Authority, having actual knowledge that a driver has used a controlled substance, shall not permit the driver to perform or continue to perform a safety-sensitive function.

(c) The Authority may require a driver to inform the Authority of any therapeutic drug use.

All drivers of the Authority are required, as a safety rule and under DOT regulations, to pre-duty disclosure that they are taking ANY impairing affect therapeutic drug, prescription medication (including medical marijuana), over-the-counter medication, mind altering synthetic or designer drugs or substances which may have an effect on their ability to safely operate a commercial motor vehicle or the performance of safety-sensitive duties. It is an essential function of every driver's position at the Authority to be able to work in a constant state of alertness and in a safe manner. If the fact that the driver is taking an impairing effect drug, medication or substance is not disclosed pre-duty by a driver, and the driver tests positive or is determined by the MRO to be a potential safety risk due to a drug, medication or substance, that driver will be subject to discipline, up to and including termination for violation of this safety rule. If disclosure is made, the Authority, in accordance with its authority under 49 CFR Part 391.11(a), reserves the right to send the driver for a Fitness-for-Duty evaluation to evaluate the medication and its possible adverse effects on the driver's ability to safely operate a commercial motor vehicle or the performance of other safety-sensitive duties. In determining whether the employee has a legally valid prescription so as to constitute a legitimate medical explanation, consistent with the Controlled Substances Act (CSA), the MRO will use the CSA standard when conducting his medical review (49 CFR Part 40.137).

In advance of the operation of a commercial motor vehicle, or the performance of other safety-sensitive duties, or testing, drivers are strongly encouraged (and mandated by DOT Regulations) to have their own doctor make an individualized assessment of any safety related risks of the drug, medication or substance which they are taking, providing the doctor a copy of their job description or specific duties, and having the doctor render an opinion on the safety related risks. The driver need not disclose to their supervisor the drug, medication or substance, or the medical condition involved, to fulfill this pre-duty disclosure obligation of this safety policy, but may do so confidentially to the DER. All information provided will be kept separate from personnel files and in a confidential manner by the DER. The MRO will make the final determination on the driver's ability to safely operate a commercial motor vehicle or the safety related risks of any particular drug, medication or substance, although the Authority shall make the final determination on whether the driver is qualified to drive/operate a commercial motor vehicle.

CONTROLLED SUBSTANCES TESTING ***382.215***

No driver shall report for duty, remain on duty or perform a safety-sensitive function, if the driver tests positive or has adulterated or substituted a test specimen for controlled substances. The Authority having actual knowledge that a driver has tested positive or has adulterated or substituted a test specimen for controlled substances, shall not permit the driver to perform or continue to perform safety-sensitive functions. In accordance with 49 CFR Part 40.171, when the MRO has notified the driver that he or she has a verified positive drug test and/or refusal to test because of adulteration or substitution, the driver has 72 hours from the time of notification to request a test of the split specimen.

EMPLOYER RESPONSIBILITIES ***382.217***

No employer may allow, require, permit or authorize a driver to operate a commercial motor vehicle during any period in which an employer determines that a driver is not in compliance with the return-to-duty requirements in 49 CFR part 40, subpart O, after the occurrence of any of the following events:

(a) The driver receives a positive, adulterated, or substituted drug test result conducted under part 40;
(b) The driver receives an alcohol confirmation test result of 0.04 or higher alcohol concentration conducted under part 40;
(c) The driver refused to submit to a test for drugs or alcohol required under § 382; or
(d) The driver used alcohol prior to a post-accident alcohol test in violation of § 382.209.

CONSEQUENCES OF CONDUCT PROHIBITED BY SECTION B Any driver who engages in conduct prohibited by Section B of this policy will be subject to disciplinary action up to and including termination.

<u>SECTION C - TESTS REQUIRED</u>

TESTS REQUIRED

Required testing includes pre-employment (controlled substances required, alcohol at option of the Authority), post-accident, random, and reasonable suspicion. Return-to-duty and follow-up-testing is also required if the ***Entity Name*** allows a "positive" test employee to return to a safety-sensitive function after the required evaluation by a Substance Abuse Professional and the required rehabilitation.

THE AUTHORITY RESERVES RIGHT TO CONDUCT NON-DOT DRUG AND ALCOHOL TESTING

In addition to drug and alcohol testing conducted by the Authority pursuant to 49 CFR Part 40 and 49 CFR Part 382, The Authority reserves the independent authority to screen and/or test employees under the Authority's Policy including, but not limited to, laboratory testing and point of collection test (POCT) devices utilizing alternative body specimens including hair, urine and oral fluid (saliva), for the detection of illegal drugs, prescription and over-the-counter medications or substances which have an impairing affect and/or alcohol, taken by those who are considered safety-sensitive employees, as may be permitted and/or restricted by applicable state or local laws or regulations and applicable collective bargaining agreements. mind altering synthetic or designer drugs These collections will be performed in addition to, and not as a substitute for, DOT regulated tests and these urine specimens will not be poured from or taken from the same specimen collected for a DOT urine test or alcohol test [40.13] and will not be conducted using DOT forms [40.47, 40.227]. This may also include a "zero tolerance" policy for the use of drugs or alcohol.

PRE-EMPLOYMENT ***382.301***

(a) Prior to the first time a driver performs safety-sensitive functions for the Authority, the driver shall undergo testing for controlled substances as a condition prior to being used, unless the Authority uses the exception in paragraph (b) of this section. The Authority shall not allow a driver, who the Authority intends to hire or use, to perform safety-sensitive functions unless the Authority has received a controlled substances test result from the MRO or C/TPA indicating a verified negative test result for that driver. The Authority *shall require a re-collection of a urine specimen on any pre-employment, return-to-duty, and follow-up drug test if the result is negative-dilute. The MRO has authority to direct the re-collection be observed. If the second test result is also negative-dilute, the Authority shall accept the result as a negative test.*

(b) The Authority is not required to administer a controlled substances test required by paragraph (a) of this section if:

(1) The driver has participated in a controlled substances testing program that meets the requirements of this policy within the previous 30 days; and

(2) While participating in that program, either--

(i) Was tested for controlled substances within the past 6 months (from the date of application with the Authority), or

(ii) Participated in the random controlled substances testing program for the previous 12 months (from the date of application with the Authority); and

(3) The Authority ensures that no prior employer of the driver of whom the Authority has knowledge has records of a violation of this policy or the controlled substances use rule of another DOT agency within the previous six months.

(c) (1) If the Authority exercises the exception in paragraph (b) of this section, the Authority shall contact the controlled substances testing program(s) in which the driver participates or participated and shall obtain and retain from the testing program(s) the following information:

(i) Name(s) and address(es) of the program(s).

(ii) Verification that the driver participates or participated in the program(s).

(iii) Verification that the program(s) conforms to part 40 of Federal regulations.

(iv) Verification that the driver is qualified under the rules of this policy, including that the driver has not refused to be tested for controlled substances.

(v) The date the driver was last tested for controlled substances.

(vi) The results of any tests taken within the previous six months and any other violations of Section B of this policy.

(2) If the Authority who uses but does not employ a driver more than once a year to operate commercial motor vehicles must obtain the information in paragraph (c)(1) of this section at least once every six months. The records prepared under this paragraph shall be maintained in accordance with 382.401. If the Authority cannot verify that the driver is participating in a controlled substances testing program in accordance with this policy and part 40 of Federal regulations, the Authority shall conduct a pre-employment controlled substances test.

(d) The Authority may, but is not required to, conduct pre-employment alcohol testing under this policy. If the Authority chooses to conduct pre-employment alcohol testing, it must comply with the following requirements:

(1) It must conduct a pre-employment alcohol test before the first performance of safety-sensitive functions by every covered employee (whether a new employee or someone who has transferred to a position involving the performance of safety-sensitive functions).

(2) It must treat all safety-sensitive employees performing safety-sensitive functions the same for the purpose of pre-employment alcohol testing (i.e., it must not test some covered employees and not others).

(3) It must conduct the pre-employment tests after making a contingent offer of employment or transfer, subject to the employee passing the pre-employment alcohol test.

(4) It must conduct all pre-employment alcohol tests using the alcohol testing procedures of 49 CFR part 40 of Federal regulation.

(5) It must not allow a covered employee to begin performing safety-sensitive functions unless the result of the employee's test indicates an alcohol concentration of less than 0.04.

POST-ACCIDENT *382.303*

(a) As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce, the Authorityshall test for alcohol for each of its surviving drivers:

(1) Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or

(2) Who receives a citation within 8 hours of the occurrence under State or local law for a moving traffic violation arising from the accident, if the accident involved:

(i) Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or

(ii) One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

(b) As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce, the Authority shall test for controlled substances for each of its surviving drivers:

(1) Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or

(2) Who receives a citation within thirty-two hours of the occurrence under State or local law for a moving traffic violation arising from the accident, if the accident involved:

(i) Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or

(ii) One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

(c) The following table notes when a post-accident test is required to be conducted by paragraphs (a)(1), (a)(2), (b)(1), and (b)(2) of this section:

Type of accident involved	Citation issued to the CMV driver	Test must be performed the Authority
Human fatality	YES	YES
	NO	YES
Bodily injury with immediate medical	YES	YES
treatment away from the scene	NO	NO
Disabling damage to any motor	YES	YES
vehicle requiring tow away	NO	NO

(d) (1) Alcohol tests. If a test required by this section is not administered within two hours following the accident, the Authority shall prepare and maintain on file a record stating the reasons the test was not promptly administered. If a test required by this section is not administered within eight hours following the accident, the Authority shall cease attempts to administer an alcohol test and shall prepare and maintain the same record. Records shall be submitted to the FMCSA upon request.

(2) Controlled substance tests. If a test required by this section is not administered within 32 hours following the accident, the Authority shall cease attempts to administer a controlled substances test, and prepare and maintain on file a record stating the reasons the test was not promptly administered. Records shall be submitted to the FMCSA upon request.

(e) A driver who is subject to post-accident testing shall remain readily available for such testing or may be deemed by the Authority to have refused to submit to testing. Nothing in this section shall be construed to require the delay of necessary medical attention for injured people following an accident or to prohibit a driver from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.

(f) The Authority shall provide drivers with necessary post-accident information, procedures and instructions, prior to the driver operating a commercial motor vehicle, so that drivers will be able to comply with the requirements of this section.

(g) (1) The results of a breath or blood test for the use of alcohol, conducted by Federal, State, or local officials having independent authority for the test, shall be considered to meet the requirements of this section, provided such tests conform to the applicable Federal, State or local alcohol testing requirements, and that the results of the tests are obtained by the Authority.

(2) The results of a urine test for the use of controlled substances, conducted by Federal, State, or local officials having independent authority for the test, shall be considered to meet the requirements of this section, provided such tests conform to the applicable Federal, State or local controlled substances testing requirements, and that the results of the tests are obtained by the Authority.

(h) Exception. This section does not apply to:

(1) An occurrence involving only boarding or alighting from a stationary motor vehicle; or

(2) An occurrence involving only the loading or unloading of cargo; or

(3) An occurrence in the course of the operation of a passenger car or a multipurpose passenger vehicle (as defined in 571.3) by the Authority unless the motor vehicle is transporting passengers for hire or hazardous materials of a type and quantity that require the motor vehicle to be marked or placarded in accordance with 177.823.

RANDOM *382.305*

(a) The Authority shall comply with the requirements of this section. Every driver shall submit to random alcohol and controlled substance testing as required in this section.

(b) (1) Except as provided in paragraphs (c) through (e) of this section, the minimum annual percentage rate for random alcohol testing shall be 10 percent of the average number of driver positions.

(2) Except as provided in paragraphs (f) through (h) of this section, the minimum annual percentage rate for random controlled substances testing shall be 25 percent of the average number of driver positions.

(c) (1) The selection of drivers for random alcohol and controlled substances testing shall be made by a scientifically valid method, such as a random number table or a computer-based random number generator that is matched with drivers' Social Security numbers, payroll identification numbers, or other comparable identifying numbers.

(2) Each driver selected for random alcohol and controlled substances testing under the selection process used, shall have an equal chance of being tested each time selections are made.

(3) Each driver selected for testing shall be tested during the selection period.

(d) (1) To calculate the total number of covered drivers eligible for random testing throughout the year, the Authority, must add the total number of covered drivers eligible for testing during each random testing period for the year and divide that total by the number of random testing periods. Covered employees, and only covered employees, are to be in the Authority's random testing pool, and all covered drivers must be in the random pool. If the Authority conducts random testing more often than once per month (e.g., daily, weekly, bi-weekly) the Authority does not need to compute this total number of covered drivers rate more than on a once per month basis.
(2) The Authority may use a service agent (e.g., a C/TPA) to perform random selections and covered drivers may be part of a larger random testing pool of covered employees. However, the Authority must ensure that the service agent is testing at the appropriate percentage established for FMCSA and that only covered employees are in the random testing pool

(e) (1) The Authority shall ensure that random alcohol and controlled substances tests conducted under this policy are unannounced.
(2) The Authority shall ensure that the dates for administering random alcohol and controlled substances tests are spread reasonably throughout the calendar year.

(f) The Authority shall require that each driver who is notified of selection for random alcohol and/or controlled substances testing proceeds to the test site immediately; provided, however, that if the driver is performing a safety-sensitive function, other than driving a commercial motor vehicle, at the time of notification, the Authority shall instead ensure that the driver ceases to perform the safety-sensitive function and proceeds to the testing site as soon as possible.

(g) A driver shall only be tested for alcohol while the driver is performing safety-sensitive functions, just before the driver is to perform safety-sensitive functions, or just after the driver has ceased performing such functions.

(h) If a given driver is subject to random alcohol or controlled substances testing under the random alcohol or controlled substances testing rules of more than one DOT agency for the Authority, the driver shall be subject to random alcohol and/or controlled substances testing at the annual percentage rate established for the calendar year by the DOT agency regulating more than 50 percent of the driver's function.

(i) If the Authority is required to conduct random alcohol or controlled substances testing under the alcohol or controlled substances testing rules of more than one DOT agency, the Authority may--

(1) Establish separate pools for random selection, with each pool containing the DOT-covered employees who are subject to testing at the same required minimum annual percentage rate; or

(2) Randomly select such employees for testing at the highest minimum annual percentage rate established for the calendar year by any DOT agency to which the Authority is subject.

REASONABLE SUSPICION *382.307*

(a) The Authority shall require a driver to submit to an alcohol test when the Authority has reasonable suspicion to believe that the driver has violated the prohibitions of Section B of this policy concerning alcohol. The Authority's determination that reasonable suspicion exists to require the driver to undergo an alcohol test must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the driver.

(b) The Authority shall require a driver to submit to a controlled substances test when there is reasonable suspicion to believe that the driver has violated the prohibitions of Section B of this policy concerning controlled substances. The Authority's determination that reasonable suspicion exists to require the driver to undergo a controlled substances test must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the driver. The observations may include indications of the chronic and withdrawal effects of controlled substances.

(c) The required observations for alcohol and/or controlled substances reasonable suspicion testing shall be made by a supervisor or an official of the Authority who is trained in accordance with 382.603. The person who makes the determination that reasonable suspicion exists to conduct an alcohol test shall not conduct the alcohol test of the driver. *If the employee insists on driving, the proper local enforcement authority should be notified that an employee, who we believe may be under the influence of a drug or alcohol, is leaving the Authority premises driving a motor vehicle.*

(d) Alcohol testing is authorized by DOT/FMCSA regulations only if the observations required by paragraph (a) of this section are made during, just preceding, or just after the period of the work day that the driver is required to be in compliance with the Federal regulation. A driver may be directed by the Authority to only undergo reasonable suspicion alcohol testing while the driver is performing safety-sensitive functions, just before the driver is to perform safety-sensitive functions, or just after the driver has ceased performing such functions.

(e) (1) If an alcohol test required by DOT/FMCSA regulations is not administered within two (2) hours following the determination under paragraph (a) of this section, the Authority shall prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered. If an alcohol test required by DOT/FMCSA regulations is not administered within eight (8) hours following the determination under paragraph (a) of this section, the Authority shall cease attempts to administer an alcohol test and shall state in the record the reasons for not administering the test.

(2) Notwithstanding the absence of a reasonable suspicion alcohol test under DOT/FMCSA regulations, no driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while the driver is under the influence of or impaired by alcohol, as shown by the behavioral, speech, and performance indicators of alcohol misuse, nor shall the Authority permit the driver to perform or continue to perform safety-sensitive functions, until:

(i) An alcohol test is administered and the driver's alcohol concentration measures less than 0.02; or (ii)Twenty four (24) hours have elapsed following the determination under paragraph (a) of this section that there is reasonable suspicion to believe that the driver has violated the prohibitions in this policy concerning the use of alcohol.

(3) Except as provided in paragraph (e)(2) of this section, the Authority shall take no action under this policy against a driver based solely on the driver's behavior and appearance, with respect to alcohol use, in the absence of an alcohol test. This does not prohibit the Authority with independent authority of DOT/FMCSA regulations from taking any action otherwise consistent with law.

(f) A written record shall be made of the observations leading to an alcohol or controlled substances reasonable suspicion test, and signed by the supervisor or an official of the Authority who made the observations, with 24 hours of the observed behavior or before the results of the alcohol or controlled substances tests are released, whichever is earlier.

RETURN-TO-DUTY *382.309*

The requirements for return-to-duty testing must be performed in accordance with 49 CFR part 40, Subpart O, including that such tests will be collected under direct observation.

FOLLOW-UP *382.311*

The requirements for follow-up testing must be performed in accordance with 49 CFR part 40, Subpart O, including that such tests will be collected under direct observation.

SECTION D - HANDLING OF TEST RESULTS, RECORD RETENTION AND CONFIDENTIALITY

RETENTION OF RECORDS *382.401*

(a) General requirement. The Authority shall maintain records of its alcohol misuse and controlled substances use prevention programs as provided in this section. The records shall be maintained in a secure location with controlled access.

(b) Period of retention. The Authority shall maintain the records in accordance with the following schedule:

(1) *Five years*. The following records shall be maintained for a minimum of five years:

(i) Records of driver alcohol test results indicating an alcohol concentration of 0.02 or greater,

(ii) Records of driver verified positive controlled substances test results,

(iii) Documentation of refusals to take required alcohol and/or controlled substances tests,

(iv) Driver evaluation and referrals,

(v) Calibration documentation,

(vi) Records related to the administration of the alcohol and controlled substances testing programs,

(vii) Records related to the administration of the alcohol and controlled substances testing program, including records of all driver violations, and

(viii) A copy of each annual calendar year summary required by 382.403.

(2) *Two years.* Records related to the alcohol and controlled substances collection process (except calibration of evidential breath testing devices).

(3) *One year.* Records of negative and canceled controlled substances test results (as defined in part 40 of Federal regulations) and alcohol test results with a concentration of less than 0.02 shall be maintained for a minimum of one year.

(4) *Indefinite period*. Records related to the education and training of breath alcohol technicians, screening test technicians, supervisors, and drivers shall be maintained by the Authority while the individual performs the functions which require the training and for two years after ceasing to perform those functions.

(c) Types of records. The following specific records shall be maintained. "Documents generated" are documents that may have to be prepared under a requirement of Federal regulations and this policy. If the record is required to be prepared, it must be maintained.

(1) Records related to the collection process:

(i) Collection logbooks, if used,

(ii) Documents relating to the random selection process,

(iii) Calibration documentation for evidential breath testing devices,

(iv) Documentation of breath alcohol technician training,

(v) Documents generated in connection with decisions to administer reasonable suspicion alcohol or controlled substances tests,

(vi) Documents generated in connection with decisions on post-accident tests,

(vii) Documents verifying existence of a medical explanation of the inability of a driver to provide adequate breath or to provide a urine specimen for testing and

(viii) A copy of each annual calendar year summary as required by 382.403.

(2) Records related to a driver's test results:

(i) The Authority's copy of the alcohol test form, including the results of the test,

(ii) The Authority's copy of the controlled substances test chain of custody and control form,

(iii) Documents sent by the MRO to the Authority, including those required by part 40, Subpart G,

(iv) Documents related to the refusal of any driver to submit to an alcohol or controlled substances test required by this policy and

(v) Documents presented by a driver to dispute the result of an alcohol or controlled substances test administered under this policy.

(vi) Documents generated in connection with verifications of prior employers' alcohol or controlled substances test results that the Authority:

(A) Must obtain in connection with the exception contained in 382.301 of this policy, and

(B) Must obtain as required by 382.413.

(3) Records related to other violations of this policy.

(4) Records related to evaluations:

(i) Records pertaining to a determination by a substance abuse professional concerning a driver's need for assistance and

(ii) Records concerning a driver's compliance with recommendations of the substance abuse professional.

(5) Records related to education and training:

(i) Materials on alcohol misuse and controlled substances use awareness, including a copy of the Authority's policy on alcohol misuse and controlled substances use,

(ii) Documentation of compliance with requirements of 382.601, including the driver's signed receipt of education materials,

(iii) Documentation of training provided to supervisors for the purpose of qualifying the supervisors to make a determination concerning the need for alcohol and/or controlled substances testing based on reasonable suspicion;

(iv) Documentation of training for breath alcohol technicians as required by 40.213(a), and

(v) Certification that any training conducted under these Federal Regulations complies with requirements for such training.

(6) Administrative records related to alcohol and controlled substances testing:

(i) Agreements with collection site facilities, laboratories, breath alcohol technicians, screening test technicians, medical review officers, and consortia and/or with a C/TPA,

(ii) Names and positions of officials and their role in the Authority's alcohol and controlled substances testing program(s),

(iii) Semi-annual laboratory statistical summaries of urinalysis required by 40.111 (a) of Federal regulations and

(iv) The Authority's alcohol and controlled substances testing policy and procedures.

(d) Location of records. All records required by this policy shall be maintained as required by 390.31 and shall be made available for inspection at the Authority's principal place of business within two business days after a request has been made by an authorized representative of the FMCSA.

REPORTING OF RESULTS IN A MANAGEMENT INFORMATION SYSTEM *382.403*

(a) The Authority shall prepare and maintain a summary of the results of its alcohol and controlled substances testing programs performed under this part during the previous calendar year, when requested by the Secretary of Transportation, any DOT agency, or any State or local officials with regulatory authority over the Authority or any of its drivers.

(b) If the Authority is notified, during the month of January, of a request by the Federal Motor Carrier Safety Administration to report the Authority's annual calendar year summary information, the Authority shall prepare and submit the report to the FMCSA by March 15 of that year. The Authority shall ensure that the annual summary report is accurate and received by March 15 at the location that the FMCSA specifies in its request. ***Entity Name*** must use the Management Information System (MIS) form and instructions as required by 49 CFR part 40 (at Sec. 40.26 and appendix H to part 40). The Authority may also use the electronic version of the MIS form provided by the DOT. The Administrator may designate means (e.g., electronic program transmitted via the Internet), other than hard-copy, for MIS form submission. For information on the electronic version of the form, see:

http://www.fmcsa.dot.gov/safetyprogs/drugs/engtesting.htm.

You must use the form at appendix H to this part. You may also view and download the updated (1.01.2018) instructions at the DOT's website: (https://www.transportation.gov/odapc). You must submit the MIS report in accordance with rule requirements (e.g., dates for submission, selection of companies required to submit, and method of reporting) established by the DOT agency regulating your operation.

(c) When the report is submitted to the FMCSA by mail or electronic transmission, the information requested shall be typed, except for the signature of the certifying official. ***Entity Name*** shall ensure the accuracy and timeliness of each report submitted by the Authority or a consortium.

(d) If the Authority has a covered employee who performs multi-DOT agency functions (e.g., an employee drives a commercial motor vehicle and performs pipeline maintenance duties for the Authority), then that employee shall be counted only on the MIS report for the DOT agency under which he or she is randomly tested. Normally, this will be the DOT agency under which the employee performs more than 50% of his or her duties. The Authority may have to explain the testing data for these employees in the event of a DOT agency inspection or audit.

(e) A service agent (e.g., Consortia/Third party administrator as defined in 49 CFR 382.107) may prepare the MIS report on behalf of the Authority. However, an Authority official (e.g., Designated employer representative) must certify the accuracy and completeness of the MIS report, no matter who prepares it.

ACCESS TO FACILITIES AND RECORDS *382.405*

(a) Except as required by law or expressly authorized or required, the Authority shall not release driver information that is contained in records required to be maintained under 382.401.

(b) A driver is entitled, upon written request, to obtain copies of any records pertaining to the driver's use of alcohol or controlled substances, including any records pertaining to his/her alcohol or controlled substances tests. The Authority will promptly provide the records requested by the driver. Access to a driver's records shall not be contingent upon payment for records other than those specifically requested.

(c) The Authority shall permit access to all facilities utilized in complying with the requirements of this policy to the Secretary of Transportation, any DOT agency, or any State or local officials with regulatory authority over the Authority or any of its drivers.

(d) The Authority and each service agent who maintains records for an employer, must make available copies of all results for DOT alcohol and/or controlled substances testing conducted by the Authority and any other information pertaining to the Authority's alcohol misuse and/or controlled substances use prevention program when requested by the Secretary of Transportation, any DOT agency, or any State or local officials with regulatory authority over the Authority or any of its drivers.

(e) When requested by the National Transportation Safety Board as a part of a crash investigation:

> (i) The Authority must disclose information related to the Authority's administration of a post-accident alcohol and/or a controlled substances test administered following the crash under investigation; and
>
> (ii) FMCSA will provide access to information in the Clearinghouse (once established) concerning drivers who are involved with the crash under investigation.

(f) When requested by the National Transportation Safety Board as part of an accident investigation, the Authority shall disclose information related to the Authority's administration of a post-accident alcohol and/or controlled substances test administered following the accident under investigation.

(g) Records shall be made available to a subsequent employer upon receipt of a written request from a driver. Disclosure by the subsequent employer is permitted only as expressly authorized by the terms of the driver's request.

(h) The Authority may disclose information required to be maintained under this policy pertaining to a driver to the decision maker in a lawsuit, grievance, or administrative proceeding initiated by or on behalf of the individual, and arising from a positive DOT drug or alcohol test or a refusal to test (including, but not limited to, adulterated or substituted test results) of this policy (including, but not limited to, a worker's compensation, unemployment compensation, or other proceeding relating to a benefit sought).

(i) The Authority shall release information regarding a driver's records as directed by the specific written consent of the driver authorizing release of the information to an identified person. Release of such information by the person receiving the information is permitted only in accordance with the terms of the employee's specific written consent as outlined in 49 CFR part 40.321(b).

MEDICAL REVIEW OFFICER NOTIFICATIONS TO THE AUTHORITY *382.407*

The medical review officer shall report the results of controlled substances tests to the Authority in accordance with the requirements of 49 CFR part 40, Subpart G.

MEDICAL REVIEW OFFICER RECORD RETENTION FOR CONTROLLED SUBSTANCES *382.409*

(a) A medical review officer or third-party administrator shall maintain all dated records and notifications, identified by individual, for a minimum of five (5) years for verified positive controlled substances test results.

(b) A medical review officer or third-party administrator shall maintain all dated records and notifications, identified by individual, for a minimum or one (1) year for negative and canceled controlled substances test results.

(c) No person may obtain the individual controlled substances test results retained by a medical review officer (MRO as defined in § 40.3) or a consortium/third party administrator (C/TPA as defined in 382.107), and no MRO or C/TPA may release the individual controlled substances test results of any driver to any person, without first obtaining a specific, written authorization from the tested driver. Nothing in this paragraph (c) shall prohibit a MRO or a C/TPA from releasing to the employer, the Clearinghouse (once established), or to the Secretary of Transportation, any DOT agency, or any State or local officials with regulatory authority over the controlled substances and alcohol testing program under this part, the information delineated in part 40, subpart G.

EMPLOYER NOTIFICATIONS *382.411*

(a) The Authority shall notify a driver of the results of a pre-employment controlled substances test conducted under this policy, if the driver applicant requests such results within 60 calendar days of being notified of the disposition of the employment application. The Authority shall notify a driver of the results of random, reasonable suspicion and post-accident tests for controlled substances conducted under this policy if the test results are verified positive. The Authority shall also inform the driver which controlled substance or substances were verified as positive.

(b) The designated employer representative (DER) shall make reasonable efforts to contact and request each driver who submitted a specimen under this policy, regardless of the driver's employment status, to contact and discuss the results of the controlled substances test with a medical review officer who has been unable to contact the driver.

(c) The designated employer representative (DER) shall immediately notify the medical review officer that the driver has been notified to contact the medical review officer within 24 hours.

INQUIRIES FOR ALCOHOL AND CONTROLLED SUBSTANCES INFORMATION FROM PREVIOUS EMPLOYERS *382.413*

(a) The Authority must request alcohol and controlled substances information from previous employers in accordance with the requirements of § 40.25, except that the Authority must request information from all DOT-regulated employers that employed the driver within the previous 3 years and the scope of the information requested must date back 3 years.

(b) As of January 6, 2023, employers must use the Drug and Alcohol Clearinghouse in accordance with § 382.701(a) to comply with the requirements of § 40.25 of this title with respect to FMCSA-regulated employers. **Exception**: When an employee who is subject to follow-up testing has not successfully completed all follow-up tests, employers must request the previous employer's follow-up testing plan directly from the previous employer in accordance with § 40.25(b)(5).

(c) If an applicant was subject to an alcohol and controlled substance testing program under the requirements of a DOT Agency other than FMCSA, the Authority must request the alcohol and controlled substances information required under this section and § 40.25 directly from those employers regulated by a DOT Agency other than FMCSA.

NOTIFICATION TO EMPLOYERS OF A CONTROLLED SUBSTANCES OR ALCOHOL TESTING PROGRAM VIOLATION *382.415*

Each person holding a commercial driver's license and subject to the DOT controlled substances and alcohol testing requirements under § 382 who has violated the alcohol and controlled substances prohibitions under part 40 or under § 382 without complying with the requirements of part 40, subpart O, must notify in writing all current employers of such violation(s). The driver is not required to provide notification to the employer that administered the test or documented the circumstances that gave rise to the violation. The notification must be made before the end of the business day following the day the employee received notice of the violation, or prior to performing any safety-sensitive function, whichever comes first.

SECTION E - CONSEQUENCES FOR DRIVERS ENGAGING IN SUBSTANCE USE-RELATED CONDUCT

REMOVAL FROM SAFETY-SENSITIVE FUNCTION *382.501*

(a) Except as provided in Section F of this policy, no driver shall perform safety-sensitive functions, including driving a commercial motor vehicle, if the driver has engaged in conduct prohibited by Section B of this policy or an alcohol or controlled substances rule of another DOT agency.

(b) The Authority shall not permit any driver to perform safety-sensitive functions, including driving a commercial motor vehicle, if the Authority has determined that the driver has violated this policy.

(c) For the purposes of DOT/FMCSA regulations, commercial motor vehicle means a commercial motor vehicle in commerce as defined in 382.107 and a commercial motor vehicle in interstate commerce as defined in part 390.

REQUIRED EVALUATION AND TESTING *382.503*

No driver who has engaged in conduct prohibited by Section B of this policy shall perform safety-sensitive functions, including driving a commercial motor vehicle, unless the driver has met the requirements of 49 CFR part 40, Subpart O. The Authority shall not permit a driver who has engaged in conduct prohibited by Section B of this policy to perform safety-sensitive functions, including driving a commercial motor vehicle, unless the driver has met the requirements of 49 CFR part 40, Subpart O.

OTHER ALCOHOL-RELATED CONDUCT *382.505*

(a) No driver tested under the provisions of Section C of this policy who is found to have an alcohol concentration of 0.02 or greater but less than 0.04 shall perform or continue to perform safety-sensitive functions for the Authority, including driving a commercial motor vehicle, nor shall the Authority permit the driver to perform or continue to perform safety-sensitive functions, until the start of the driver's next regularly scheduled duty period, but not less than 24 hours following administration of the test.

(b) Except as provided in paragraph (a) of this section, the Authority shall not take any action under this policy against a driver based solely on test results showing an alcohol concentration less than 0.04. This does not prohibit the Authority with authority independent of this policy from taking any action otherwise consistent with law.

The use or possession of alcoholic beverages while on the Authority's property, or in any of the Authority's vehicle, or on the Authority's time, including breaks or lunch, paid or unpaid, on any shift, is strictly prohibited.

Employees who are not at work, but who could be called out are expected to be fit for duty upon reporting for work. If an employee is under the influence of alcohol, the employee must notify the Authority's personnel when contacted. Failure to advise the Authority of alcohol consumption may result in disciplinary action. If a covered employee is perceived to be under the influence of alcohol when reporting to work after being called in, the employee's supervisor must be notified.

The supervisor must objectively observe the employee's behavior and if possible, substantiate the behavior with a second supervisor. Supervisors must have received training in alcohol and/or substance abuse detection. The supervisor must follow procedures outlined in the policy. If a determination to test for reasonable suspicion is made, the employee is immediately removed from safety-sensitive duties and the DER is contacted.

PENALTIES 382.507

The Authority and/or driver who violates the FMCSA requirements of § 382 and/or 49 CFR part 40 shall be subject to the civil and/or criminal penalty provisions of 49 U.S.C. Section 521(b).

SECTION F – ALCOHOL MISUSE AND CONTROLLED SUBSTANCES USE INFORMATION, TRAINING, AND REFERRAL

THE AUTHORITY'S OBLIGATION TO PROMULGATE A POLICY ON THE MISUSE OF ALCOHOL AND USE OF CONTROLLED SUBSTANCES. ***382.601***

(a) *General requirements.* The Authority shall provide educational materials that explain the requirements of this policy and the Authority's policies and procedures with respect to meeting the FMCSA alcohol and drug testing requirements.

(1) The Authority shall ensure that a copy of these materials is distributed to each driver prior to the start of alcohol and controlled substances testing under this policy and to each driver subsequently hired or transferred into a position requiring driving a commercial motor vehicle.

(2) The Authority shall provide written notice to representatives of employee organizations of the availability of this information.

(b) *Required content.* The materials to be made available to drivers shall include detailed discussion of at least the following:

(1) The identity of the person designated by the Authority to answer driver questions about the materials; *(COVERED EMPLOYEE CERTIFICATE OF RECEIPT)*

(2) The categories of drivers who are subject to the provisions of this policy; *(APPLICABILITY)*

(3) Sufficient information about the safety-sensitive functions performed by those drivers to make clear what period of the work day the driver is required to be in compliance with the policy; *(PERIOD OF THE WORK DAY A DRIVER IS REQUIRED TO BE IN COMPLIANCE)*

(4) Specific information concerning driver conduct that is prohibited by this policy; *(SECTION B - PROHIBITIONS)*

(5) The circumstances under which a driver will be tested for alcohol and/or controlled substances under this policy including post-accident testing under 382.303(d); *(SECTION C - TESTS REQUIRED)*

(6) The procedures that will be used to test for the presence of alcohol and controlled substances, protect the driver and the integrity of the testing process, safeguard the validity of the test results, and ensure that those results are attributed to the correct driver, including post-accident information, procedures and instructions required by 382.303(d); *(49 CFR part 40)*

(7) The requirement that a driver submit to alcohol and controlled substances tests administered in accordance with this policy; *(REFUSAL TO SUBMIT TO A REQUIRED ALCOHOL OR CONTROLLED SUBSTANCES TEST)*

(8) An explanation of what constitutes a refusal to submit to an alcohol or controlled substances test and the attendant consequences; *(DEFINITIONS)*

(9) The consequences for drivers found to have violated Section B of this policy, including the requirement that the driver be removed immediately from safety-sensitive functions, and the procedures under 49 CFR part 40, Subpart O; *(CERTIFICATE OF RECEIPT, CONSEQUENCES OF PROHIBITED CONDUCT; and CONSEQUENCES OF CONDUCT PROHIBITED BY SECTION B, and SECTION E)*

(10) The consequences for drivers found to have an alcohol concentration of 0.02 or greater but less that 0.04; *(OTHER ALCOHOL-RELATED CONDUCT 382.505)*

(11) Information concerning the effects of alcohol and controlled substances use on an individual's health, work, and personal life; signs and symptoms of an alcohol or a controlled substances problem (the driver's or a coworker's); and available methods of intervening when an alcohol or a controlled substances problem is suspected, including confrontation, referral to any employee assistance program and/or referral to management;

(c) The requirement that the following personal information collected and maintained under this part shall be reported to the Clearinghouse (once established):

(1) A verified positive, adulterated, or substituted drug test result;

(2) An alcohol confirmation test with a concentration of 0.04 or higher;

(3) A refusal to submit to any test required by subpart C;

(4) An employer's report of actual knowledge, as defined at § 382.107:

(5) On-duty alcohol use pursuant to § 382.205;

(6) Pre-duty alcohol use pursuant to § 382.207;

(7) Alcohol use following an accident pursuant to § 382.209; and

(8) Controlled substance use pursuant to § 382.213;

(9) A substance abuse professional (SAP as defined in § 40.3 of this title) report of the successful completion of the return-to-duty process;

(10) A negative return-to-duty test; and

(11) An employer's report of completion of follow-up testing.

(d) *Optional provision.* The materials supplied to drivers may also include information on the Authority's additional policies with respect to the use or possession of alcohol or controlled substances, including any consequences for a driver found to have a specified alcohol or controlled substances level, that are based on the Authority's authority independent of Federal regulation. Any such additional policies or consequences must be clearly and obviously described as being based on independent authority.

(e) *Certificate of receipt.* The Authority shall ensure that each driver is required to sign a statement certifying that he/she has received a copy of these materials described in this section. The Authority shall maintain the original of the signed certificate and may provide a copy of the certificate to the driver.

TRAINING FOR SUPERVISORS *382.603*

The Authority shall ensure that all persons designated to supervise drivers receive at least 60 minutes of training on alcohol misuse and receive at least an additional 60 minutes of training on controlled substances use. The training will be used by the supervisors to determine whether reasonable suspicion exists to require a driver to undergo testing under § 382.307. The training shall include the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances. Recurrent training for supervisory personnel is not required.

REFERRAL, EVALUATION, AND TREATMENT *382.605*

The requirements for referral, evaluation, and treatment must be performed in accordance with 49 CFR part 40, Subpart O.

SECTION G – REQUIREMENTS AND PROCEDURES FOR IMPLEMENTATION OF THE COMMERCIAL DRIVER'S LICENSE DRUG AND ALCOHOL CLEARINGHOUSE

The purpose of the Authority Policy update in advance of the Compliance Date of January 6, 2020 as mandated by § 382.601: 1) is part of the Authority's efforts to meet its *Employer Obligation to Promulgate a Policy on the Misuse of Alcohol and Use of Controlled Substance*; 2) to publish educational materials to drivers about the Clearinghouse and other regulatory changes contained in the Final Rule issued December 5, 2016; and 3) to notify drivers that drug and alcohol test information will be reported to the Clearinghouse beginning January 6, 2020 so as to encourage drivers to seek substance abuse treatment if they currently have a problem with the misuse of alcohol and/or use of controlled substance(s).

DRUG AND ALCOHOL CLEARINGHOUSE *382.701*

(a*) Pre-employment query required.*

(1) Employers must not employ a driver subject to controlled substances and alcohol testing to perform a safety-sensitive function without first conducting a pre-employment query of the Clearinghouse to obtain information about whether the driver has a verified positive, adulterated, or substituted controlled substances test result; has an alcohol confirmation test with a concentration of 0.04 or higher; has refused to submit to a test in violation of § 382.211; or that an employer has reported actual knowledge, as defined at § 382.107, that the driver used alcohol on duty in violation of § 382.205, used alcohol before duty in violation of § 382.207, used alcohol following an accident in violation of § 382.209, or used a controlled substance, in violation of § 382.213.

(2) The Authority must conduct a full query under this section, which releases information in the Clearinghouse to an employer and requires that the individual driver give specific consent.

(b) *Annual query required.*

(1) The Authority must conduct a query of the Clearinghouse at least once per year for information for all employees subject to controlled substance and alcohol testing under 382, to determine whether information exists in the Clearinghouse about those employees.

(2) In lieu of a full query, as described in paragraph (a)(2) of 382.701, the Authority may obtain the individual driver's consent to conduct a limited query to satisfy the annual query requirement in paragraph (b)(1) of this section. The limited query will tell the Authority whether there is information about the individual driver in the Clearinghouse, but will not release that information to the Authority. The individual driver may give consent to conduct limited queries that is effective for more than one year.

(3) If the limited query shows that information exists in the Clearinghouse about the individual driver, the employer must conduct a full query, in accordance with paragraph (a)(2) of 382.701, within 24 hours of conducting the limited query. If the employer fails to conduct a full query within 24 hours, the employer must not allow the driver to continue to perform any safety-sensitive function until the employer conducts

the full query and the results confirm that the driver's Clearinghouse record contains no prohibitions as defined in paragraph (d) of 382.701.

(c) *Employer notification*. If any information described in paragraph (a) of 382.701 is entered into the Clearinghouse about a driver during the 30-day period immediately following an employer conducting a query of that driver's records, FMCSA will notify the employer.

(d) *Prohibition*. No employer may allow a driver to perform any safety-sensitive function if the results of a Clearinghouse query demonstrate that the driver has a verified positive, adulterated, or substituted controlled substances test result; has an alcohol confirmation test with a concentration of 0.04 or higher; has refused to submit to a test in violation of § 382.211; or that an employer has reported actual knowledge, as defined at

§ 382.107, that the driver used alcohol on duty in violation of § 382.205, used alcohol before duty in violation of § 382.207, used alcohol following an accident in violation of § 382.209, or used a controlled substance in violation of § 382.213, except where a query of the Clearinghouse demonstrates:

(1) That the driver has successfully completed the SAP evaluation, referral, and education/treatment process set forth in part 40, subpart O, of this title; achieves a negative return-to-duty test result; and completes the follow-up testing plan prescribed by the SAP.

(2) That, if the driver has not completed all follow-up tests as prescribed by the SAP in accordance with § 40.307 and specified in the SAP report required by § 40.311, the driver has completed the SAP evaluation, referral, and education/treatment process set forth in part 40, subpart O, and achieves a negative return-to-duty test result, and the employer assumes the responsibility for managing the follow-up testing process associated with the testing violation.

(e) *Recordkeeping required*. Employers must retain for 3 years a record of each query and all information received in response to each query made under this section. As of January 6, 2023, an employer who maintains a valid registration fulfills this requirement.

DRIVER CONSENT TO PERMIT ACCESS TO INFORMATION IN THE CLEARINGHOUSE *382.703*

(a) No employer may query the Clearinghouse to determine whether a record exists for any particular driver without first obtaining that driver's written or electronic consent. The employer conducting the search must retain the consent for 3 years from the date of the last query.

(b) Before the Authority may access information contained in the driver's Clearinghouse record, the driver must submit electronic consent through the Clearinghouse granting the employer access to the following specific records:

(1) A verified positive, adulterated, or substituted controlled substances test result;

(2) An alcohol confirmation test with a concentration of 0.04 or higher;

(3) A refusal to submit to a test in violation of § 382.211;

(4) An employer's report of actual knowledge, as defined at § 382.107, of:

(i) On duty alcohol use pursuant to § 382.205;

(ii) Pre-duty alcohol use pursuant to § 382.207;

(iii) Alcohol use following an accident pursuant to § 382.209; and

(iv) Controlled substance use pursuant to § 382.213;

(5) A SAP report of the successful completion of the return-to-duty process;

(6) A negative return-to-duty test; and

(7) An employer's report of completion of follow-up testing.

(c) No employer may permit a driver to perform a safety-sensitive function if the driver refuses to grant the consent required by paragraphs (a) and (b) of 382.703.

(d) A driver granting consent under 382.703 must provide consent electronically to the Agency through the Clearinghouse prior to release of information to an employer in accordance with § 382.701(a)(2) or (b)(3).

(e) A driver granting consent under this section grants consent for the Agency to release information to an employer in accordance with § 382.701(c).

REPORTING TO THE CLEARINGHOUSE *382.705*

(a) *MROs*.

(1) Within 2 business days of making a determination or verification, MROs must report the following information about a driver to the Clearinghouse:

(i) Verified positive, adulterated, or substituted controlled substances test results;

(ii) Refusal-to-test determination by the MRO in accordance with 49 CFR 40.191(a)(5), (7), and (11), (b), and (d)(2).

(2) MROs must provide the following information for each controlled substances test result specified in paragraph (a)(1) of this section:

(i) Reason for the test;

(ii) Federal Drug Testing Custody and Control Form specimen ID number;

(iii) Driver's name, date of birth, and CDL number and State of issuance;

(iv) Employer's name, address, and USDOT number, if applicable;

(v) Date of the test;

(vi) Date of the verified result; and

(vii) *Test result*. The test result must be one of the following:

(A) Positive (including the controlled substance(s) identified);

(B) Refusal to test: adulterated;

(C) Refusal to test: substituted; or

(D) Refusal to provide a sufficient specimen after the MRO makes a determination, in accordance with § 40.193 of this title, that the employee does not have a medical condition that has, or with a high degree of probability could have, precluded the employee from providing a sufficient amount of urine. Under this subpart a refusal would also include a refusal to undergo a medical examination or evaluation to substantiate a qualifying medical condition.

(3) Within 1 business day of making any change to the results report in accordance with paragraph (a)(1) of this section, a MRO must report that changed result to the Clearinghouse.

(b) *Employers*.

(1) Employers must report the following information about a driver to the Clearinghouse by the close of the third business day following the date on which they obtained that information:

(i) An alcohol confirmation test result with an alcohol concentration of 0.04 or greater;

(ii) A negative return-to-duty test result;

(iii) A refusal to take an alcohol test pursuant to 49 CFR 40.261;

(iv) A refusal to test determination made in accordance with 49 CFR 40.191(a)(1) through (4), (a)(6), (a)(8) through (11), or (d)(1), but in the case of a refusal to test under (a)(11), the employer may report only those admissions made to the specimen collector; and

(v) A report that the driver has successfully completed all follow-up tests as prescribed in the SAP report in accordance with §§ 40.307, 40.309, and 40.311 of this title.

(2) The information required to be reported under paragraph (b)(1) of this section must include, as applicable:

(i) Reason for the test;

(ii) Driver's name, date of birth, and CDL number and State of issuance;

(iii) Employer name, address, and USDOT number;

(iv) Date of the test;

(v) Date the result was reported; and

(vi) *Test result*. The test result must be one of the following:

(A) Negative (only required for return-to-duty tests administered in accordance with § 382.309);

(B) Positive; or

(C) Refusal to take a test.

(3) For each report of a violation of 49 CFR 40.261(a)(1) or 40.191(a)(1), the employer must report the following information:

(i) Documentation, including, but not limited to, electronic mail or other contemporaneous record of the time and date the driver was notified to appear at a testing site; and the time, date and testing site location at which the employee was directed to appear, or an affidavit providing evidence of such notification;

(ii) Documentation, including, but not limited to, electronic mail or other correspondence, or an affidavit, indicating the date the employee was terminated or resigned (if applicable);

(iii) Documentation, including, but not limited to, electronic mail or other correspondence, or an affidavit, showing that the C/TPA reporting the violation was designated as a service agent for an employer who employs himself/herself as a driver pursuant to paragraph (b)(6) of this section when the reported refusal occurred (if applicable); and

(iv) Documentation, including a certificate of service or other evidence, showing that the employer provided the employee with all documentation reported under paragraph (b)(3) of this section.

(4) Employers must report the following violations by the close of the third business day following the date on which the employer obtains actual knowledge, as defined at § 382.107, of:

(i) On-duty alcohol use pursuant to § 382.205;

(ii) Pre-duty alcohol use pursuant to § 382.207;

(iii) Alcohol use following an accident pursuant to § 382.209; and

(iv) Controlled substance use pursuant to § 382.213.

(5) For each violation in paragraph (b)(4) of this section, the employer must report the following information:

(i) Driver's name, date of birth, CDL number and State of issuance;

(ii) Employer name, address, and USDOT number, if applicable;

(iii) Date the employer obtained actual knowledge of the violation;

(iv) Witnesses to the violation, if any, including contact information;

(v) Description of the violation;

(vi) Evidence supporting each fact alleged in the description of the violation required under paragraph (b)(4) of this section, which may include, but is not limited to, affidavits, photographs, video or audio recordings, employee statements (other than admissions pursuant to § 382.121), correspondence, or other documentation; and

(vii) A certificate of service or other evidence showing that the employer provided the employee with all information reported under paragraph (b)(4) of this section.

(6) An employer who employs himself/herself as a driver must designate a C/TPA to comply with the employer requirements in paragraph (b) of this section related to his or her own alcohol and controlled substances use.

(c) *C/TPAs*. Any employer may designate a C/TPA to perform the employer requirements in paragraph (b) of this section. Regardless of whether it uses a C/TPA to perform its requirements, the employer retains ultimate responsibility for compliance with this section. Exception: an employer does not retain responsibility where the C/TPA is designated to comply with employer requirements as described in paragraph (b)(6) of 382.705.

(d) *SAPs*.

(1) SAPs must report to the Clearinghouse for each driver who has completed the return-to-duty process in accordance with 49 CFR part 40, subpart O, the following information:

(i) SAPs name, address, and telephone number;

(ii) Driver's name, date of birth, and CDL number and State of issuance;

(iii) Date of the initial substance-abuse-professional assessment; and

(iv) Date the SAP determined that the driver demonstrated successful compliance as defined in 49 CFR part 40, subpart O, and was eligible for return-to-duty testing under 382.

(2) SAP must report the information required by paragraphs (d)(1)(i) through (iii) of this section by the close of the business day following the date of the initial substance abuse assessment, and must report the information required by paragraph (d)(1)(iv) of 382.703 by the close of the business day following the determination that the driver has completed the return-to-duty process.

(e) *Reporting truthfully and accurately*. Every person or entity with access must report truthfully and accurately to the Clearinghouse and is expressly prohibited from reporting information he or she knows or should know is false or inaccurate.

Reporting Entities and Circumstances	
Reporting Entity	**When Information Will Be Reported to Clearinghouse**
Prospective/Current Employer of CDL Driver	— An alcohol confirmation test with a concentration of 0.04 or higher — Refusal to test (alcohol) as specified in 49 CFR 40.261 — Refusal to test (drug) not requiring a determination by the MRO as specified in 49 CFR 40.191 — Actual knowledge, as defined in 49 CFR 382.107, that a driver has used alcohol on duty, used alcohol within four hours of coming on duty, used alcohol prior to post-accident testing, or has used a controlled substance. — Negative return-to-duty test results (drug and alcohol testing, as applicable) — Completion of follow-up testing
Service Agent acting on behalf of Current Employer of CDL Driver	— An alcohol confirmation test with a concentration of 0.04 or higher — Refusal to test (alcohol) as specified in 49 CFR 40.261 — Refusal to test (drug) not requiring a determination by the MRO as specified in 49 CFR 40.191 — Actual knowledge, as defined in 49 CFR 382.107, that a driver has used alcohol on duty, used alcohol within four hours of coming on duty, used alcohol prior to post-accident testing, or has used a controlled substance. — Negative return-to-duty test results (drug and alcohol testing, as applicable) — Completion of follow-up testing
MRO	— Verified positive, adulterated, or substituted drug test result — Refusal to test (drug) requiring a determination by the MRO as specified in 49 CFR 40.191
SAP	— Identification of driver and date the initial assessment was initiated — Successful completion of treatment and/or education and the determination of eligibility for return-to-duty testing

NOTICE TO DRIVERS OF ENTRY, REVISION, REMOVAL, OR RELEASE OF INFORMATION
382.707

(a) FMCSA must notify a driver when information concerning that driver has been added to, revised, or removed from the Clearinghouse.

(b) FMCSA must notify a driver when information concerning that driver has been released from the Clearinghouse to an employer and specify the reason for the release.

(c) Drivers will be notified by letter sent by U.S. Mail to the address on record with the State Driver Licensing Agency that issued the driver's commercial driver's license. Exception: A driver may provide the Clearinghouse with an alternative means or address for notification, including electronic mail.

DRIVERS' ACCESS TO INFORMATION IN THE CLEARINGHOUSE *382.709*

A driver may review information in the Clearinghouse about himself or herself, except as otherwise restricted by law or regulation. A driver must register with the Clearinghouse before accessing his or her information.

CLEARINGHOUSE REGISTRATION *382.711*

(a) *Clearinghouse registration required*. Each employer and service agent must register with the Clearinghouse before accessing or reporting information in the Clearinghouse.

(b) *Employers.*

(1) Employer Clearinghouse registration must include:

(i) Name, address, and telephone number;

(ii) USDOT number, except if the registrant does not have a USDOT Number, it may be requested to provide other information to verify identity; and

(iii) Name of the person(s) the employer authorizes to report information to or obtain information from the Clearinghouse and any additional information FMCSA needs to validate his or her identity.

(2) Employers must verify the names of the person(s) authorized under paragraph (b)(1)(iii) of this section annually.

(3) Identification of the C/TPA or other service agent used to comply with the requirements of this part, if applicable, and authorization for the C/TPA to query or report information to the Clearinghouse. Employers must update any changes to this information within 10 days.

(c) *MROs and SAPs*. Each MRO or SAP must provide the following to apply for Clearinghouse registration:

(1) Name, address, telephone number, and any additional information FMCSA needs to validate the applicant's identity;

(2) A certification that the applicant's access to the Clearinghouse is conditioned on his or her compliance with the applicable qualification and/or training requirements in 49 CFR part 40; and

(3) Evidence of required professional credentials to verify that the applicant currently meets the applicable qualification and/or training requirements in 49 CFR part 40.

(d) C/TPAs and other service agents. Each consortium/third party administrator or other service agent must provide the following to apply for Clearinghouse registration:

(1) Name, address, telephone number, and any additional information FMCSA needs to validate the applicant's identity; and

(2) Name, title, and telephone number of the person(s) authorized to report information to and obtain information from the Clearinghouse.

(3) Each C/TPA or other service agent must verify the names of the person(s) authorized under paragraph (d)(2) of 382.711 annually.

DURATION, CANCELLATION, AND REVOCATION OF ACCESS *382.713*

(a) *Term*. Clearinghouse registration is valid for 5 years, unless cancelled or revoked.

(b) *Cancellation.* FMCSA will cancel Clearinghouse registrations for anyone who has not queried or reported to the Clearinghouse for 2 years.

(c) *Revocation*. FMCSA has the right to revoke the Clearinghouse registration of anyone who fails to comply with any of the prescribed rights and restrictions on access to the Clearinghouse, including but not limited to, submission of inaccurate or false information and misuse or misappropriation of access rights or protected information from the Clearinghouse and failure to maintain the requisite qualifications, certifications and/or training requirements as set forth in part 40 of this title.

AUTHORIZATION TO ENTER INFORMATION INTO THE CLEARINGHOUSE *382.717*

(a) *C/TPAs*. No C/TPA or other service agent may enter information into the Clearinghouse on an employer's behalf unless the employer designates the C/TPA or other service agent.

(b) *SAPs*. A driver must designate a SAP before that SAP can enter any information about the driver's return-to-duty process into the Clearinghouse.

PROCEDURES FOR CORRECTING INFORMATION IN THE DATABASE 382.17

(a) Petitions limited to inaccurately reported information.

(1) Under this section, petitioners may challenge only the accuracy of information reporting, not the accuracy of test results or refusals.

(2) *Exceptions*.

(i) Petitioners may request that FMCSA remove from the Clearinghouse an employer's report of actual knowledge that the driver received a traffic citation for driving a commercial motor vehicle while under the influence of alcohol or controlled substances if the citation did not result in a conviction. For the purposes of this section, conviction has the same meaning as used in 49 CFR part 383.

(ii) Petitioners may request that FMCSA remove from the Clearinghouse an employer's report of actual knowledge (other than as provided for in paragraph (a)(2)(i) of this section) if that report does not comply with the reporting requirements in § 382.705(b)(5).

(iii) Petitioners may request that FMCSA remove from the Clearinghouse an employer's report of a violation under 49 CFR 40.261(a)(1) or 40.191(a)(1) if that report does not comply with the reporting requirements in § 382.705(b)(3).

(b) *Petition*. Any driver or authorized representative of the driver may submit a petition to the FMCSA contesting the accuracy of information in the Clearinghouse. The petition must include:

(1) The petitioner's name, address, telephone number, and CDL number and State of issuance;

(2) Detailed description of the basis for the allegation that the information is not accurate; and

(3) Evidence supporting the allegation that the information is not accurate. Failure to submit evidence is cause for dismissing the petition.

(c) *Submission of petition*. The petitioner may submit his/her petition electronically through the Clearinghouse or in writing to: Federal Motor Carrier Safety Administration, Office of Enforcement and Compliance, Attention: Drug and Alcohol Program Manager, 1200 New Jersey Avenue SE, Washington, D.C. 20590.

(d) *Notice of decision*. Within 45 days of receiving a complete petition, FMCSA will inform the driver in writing of its decision to remove, retain, or correct the information in the database and provide the basis for the decision.

(e*) Request for expedited treatment*.

(1) A driver may request expedited treatment to correct inaccurate information in his or her Clearinghouse record under paragraph (a)(1) of this section if the inaccuracy is currently preventing him or her from performing safety-sensitive functions, or to remove employer reports under paragraph (a)(2) of this section if such reports are currently preventing him or her from performing safety- sensitive functions. This request may be included in the original petition or as a separate document.

(2) If FMCSA grants expedited treatment, it will subsequently inform the driver of its decision in writing within 14 days of receipt of a complete petition.

(f) *Administrative review*.

(1) A driver may request FMCSA to conduct an administrative review if he or she believes that a decision made in accordance with paragraph (d) or (e) of this section was in error.

(2) The request must prominently state at the top of the document: "Administrative Review of Drug and Alcohol Clearinghouse Decision" and the driver may submit his/her request electronically through the Clearinghouse or in writing to the Associate Administrator for Enforcement (MC-E), Federal Motor Carrier Safety Administration, 1200 New Jersey Ave., SE., Washington, DC 20590.

(3) The driver's request must explain the error he or she believes FMCSA committed and provide information and/or documents to support his or her argument.

(4) FMCSA will complete its administrative review no later than 30 days after receiving the driver's request for review. The Associate Administrator's decision will constitute the final Agency action.

(g) *Subsequent notification to employers*. When information is corrected or removed in accordance with this section, or in accordance with 49 CFR part 10, FMCSA will notify any employer that accessed the incorrect information that a correction or removal was made.

AVAILABILITY AND REMOVAL OF INFORMATION *382.719*

(a) Driver information not available. Information about a driver's drug or alcohol violation will not be available to an employer conducting a query of the Clearinghouse after all of the following conditions relating to the violation are satisfied:

(1) The SAP reports to the Clearinghouse the information required in § 382.705(d);

(2) The employer reports to the Clearinghouse that the driver's return-to-duty test results are negative;

(3) The driver's current employer reports that the driver has successfully completed all follow-up tests as prescribed in the SAP report in accordance with §§ 40.307, 40.309, and 40.311 of this title; and

(4) Five years have passed since the date of the violation determination.

(b) Driver information remains available. Information about a particular driver's drug or alcohol violation will remain available to employers conducting a query until all requirements in paragraph (a) of this section have been met.

(c) *Exceptions*.

> (1) Within 2 business days of granting a request for removal pursuant to § 382.717(a)(2)(i), FMCSA will remove information from the Clearinghouse.
>
> (2) Information about a particular driver's drug or alcohol violation may be removed in accordance with § 382.717(a)(2)(ii) and (iii) or in accordance with 49 CFR part 10.

(d) *Driver information remains available*. Nothing in this part shall prevent FMCSA from using information removed under this section for research, auditing, or enforcement purposes.

FEES *382.721*

FMCSA may collect a reasonable fee from entities required to query the Clearinghouse. ***Exception***: No driver may be required to pay a fee to access his or her own information in the Clearinghouse.

UNAUTHORIZED ACCESS OR USE PROHIBITED *382.723*

(a) Except as expressly authorized in this subpart, no person or entity may access the Clearinghouse. No person or entity may share, distribute, publish, or otherwise release any information in the Clearinghouse except as specifically authorized by law. No person may report inaccurate or misleading information to the Clearinghouse.

(b) An employer's use of information received from the Clearinghouse is limited to determining whether a prohibition applies to a driver performing a safety-sensitive function with respect to a commercial motor vehicle. No employer may divulge or permit any other person or entity to divulge any information from the Clearinghouse to any person or entity not directly involved in determining whether a prohibition applies to a driver performing a safety-sensitive function with respect to a commercial motor vehicle.

c) Violations of this section are subject to civil and criminal penalties in accordance with applicable law, including those set forth at § 382.507.

(d) Nothing in this part shall prohibit FMCSA from accessing information about individual drivers in the Clearinghouse for research, auditing, or enforcement purposes.

ACCESS BY STATE LICENSING AUTHORITIES *382.725*

(a) In order to determine whether a driver is qualified to operate a commercial motor vehicle, the chief commercial driver's licensing official of a State must obtain the driver's record from the Clearinghouse if the driver has applied for a commercial driver's license from that State.

(b) By applying for a commercial driver's license, a driver is deemed to have consented to the release of information from the Clearinghouse in accordance with this section.

(c) The chief commercial driver's licensing official's use of information received from the Clearinghouse is limited to determining an individual's qualifications to operate a commercial motor vehicle. No chief driver's licensing official may divulge or permit any other person or entity to divulge any information from the Clearinghouse to any person or entity not directly involved in determining an individual's qualifications to operate a commercial motor vehicle.

(d) A chief commercial driver's licensing official who does not take appropriate safeguards to protect the privacy and confidentiality of information obtained under this section is subject to revocation of his or her right of access under this section.

PENALTIES *382.727*

An employer, employee, MRO, or service agent who violates any provision of this subpart shall be subject to the civil and/or criminal penalty provisions of 49 U.S.C. 521(b)(2)(C).

INVESTIGATION AND INQUIRIES *391.23*

(e) (4) As of January 6, 2023, employers subject to § 382.701(a) of § 382 must use the Drug and Alcohol Clearinghouse to comply with the requirements of this section with respect to FMCSA-regulated employers.

(i) *Exceptions*.

(A) If an applicant who is subject to follow-up testing has not successfully completed all follow-up tests, the employer must request the applicant's follow-up testing plan directly from the previous employer in accordance with § 40.25(b)(5) of Part 40.

(B) If an applicant was subject to an alcohol and controlled substance testing program under the requirements of a DOT mode other than FMCSA, the employer must request alcohol and controlled substances information required under this section directly from those employers regulated by a DOT mode other than FMCSA.

(ii) [*Reserved*]

(f) (1) A prospective motor carrier employer must provide to the previous employer the driver's consent meeting the requirements of § 40.321(b) of Part 40 for the release of the information in paragraph (e) of 391.23. If the driver refuses to provide this consent, the prospective motor carrier employer must not permit the driver to operate a commercial motor vehicle for that motor carrier.

(2) If a driver refuses to grant consent for the prospective motor carrier employer to query the Drug and Alcohol Clearinghouse in accordance with paragraph (e)(4) of 391.23, the prospective motor carrier employer must not permit the driver to operate a commercial motor vehicle.

Attachment A

Commercial Motor Vehicle Driver's

Certificate of Compliance with DOT Cell-Phone/Texting Bans

MOTOR CARRIERS: The restrictions in 49 CFR Part 392 on using a mobile telephone or texting while driving apply to every operator of a "commercial motor vehicle" as defined in Section 390.5, including interstate vehicles weighing or rated at 10,001 pounds or more, vehicles placarded for hazardous materials, and certain vehicles designed or used for more than 8 passengers (including the driver). In-state operations of vehicles placarded for hazardous materials are also subject to the restrictions. Other in-state-only operations may also be subject, depending on state rules.

DRIVERS: Part 392 of the Federal Motor Carrier Safety Regulations contains restrictions on texting and the use of hand-held mobile telephones while driving a commercial motor vehicle (CMV), including the following:

- **Texting ban (392.80):** You may not manually enter text into or read text from an electronic device while driving a CMV. This includes e-mailing, text messaging, using the internet, pressing more than one button to start or end a phone call, or any other form of text retrieval or entry for communication purposes.
- **Hand-held cell-phone ban (392.82):** You are prohibited from using a hand-held cell phone while driving a CMV. This includes talking on a phone while holding it in your hand (including push-to-talk), pressing more than a single button to dial or answer a cell phone, or leaving your normal, seated driving position to reach for a cell phone.

Except as prohibited under the Authority policy, you are allowed to use a hands-free phone, a CB radio, a navigation system, a two-way radio, a music player, or a fleet management system for purposes other than texting. Texting and hand-held cell-phone use are **only** allowed if you need to contact emergency services or if you have stopped in a safe location off the road.

Penalties (383.51, 391.15, 49 CFR 386): CDL and non-CDL drivers can be disqualified for 60 up to 120 days and/or face fines of up to $2,750 for each violation. The Authority can be fined up to $11,000 for each violation.

It is understood that the above information is being provided to the employee in an effort by the Authority to show good faith efforts to achieve compliance with the above-cited regulations. (49 CFR § 386.81)